

Historic, Archive Document

Do not assume content reflects current scientific knowledge, policies, or practices.

2N7

U.S. Department of Health, Education, and Welfare

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD
DRUG, AND COSMETIC ACT

U. S. DEPT. OF AGRICULTURE
NATIONAL AGRICULTURAL LIBRARY

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

30201-30300

MAR 18 1966

FOODS

CURRENT SERIAL RECORDS

The cases reported herewith were instituted in the United States district courts by United States attorneys, acting upon reports submitted by the Department of Health, Education, and Welfare. They involve foods which were alleged to be adulterated or misbranded within the meaning of the Act, when introduced into and while in interstate commerce, or while held for sale after shipment in interstate commerce. These cases involve (1) seizure proceedings in which decrees of condemnation were entered after default, or consent; (2) criminal proceedings which were terminated upon pleas of guilty and nolo contendere; and (3) injunction proceedings which involved the entry of decrees of preliminary injunction. The seizure proceedings are civil actions taken against the *goods* alleged to be in violation, and the criminal and injunction proceedings are against the *firms or individuals* charged to be responsible for violations.

Published by direction of the Secretary of Health, Education, and Welfare.

JAMES L. GODDARD, *Commissioner of Food and Drugs.*
WASHINGTON, D.C., *February 15, 1966.*

CONTENTS

	Page		Page
Beverages and beverage materials.....	484	Fruits and vegetables—Con.	
Cereals and cereal products.....	485	Vegetables and vegetable products.....	503
Flour.....	485	Tomatoes and tomato products.....	506
Miscellaneous cereals and cereal products.....	488	Meat products and poultry.....	509
Eggs.....	497	Nuts and nut products.....	510
Feeds and grains.....	500	Vitamin, mineral, and other products of special dietary significance.....	511
Fruits and vegetables.....	501	Index.....	514
Canned fruit.....	501		
Jam.....	502		
Miscellaneous fruit products..	502		
			483

SECTIONS OF FEDERAL FOOD, DRUG, AND COSMETIC ACT INVOLVED IN ALLEGED VIOLATIONS REPORTED IN F.N.J. NOS. 30201-30300

Adulteration, Section 402(a)(1), the article contained a poisonous or deleterious substance which might render it injurious to health; Section 402(a)(2)(B), the article was a raw agricultural commodity and contained a pesticide chemical which was unsafe within the meaning of Section 408(a); Section 402(a)(2)(C), the article contained a food additive which was unsafe within the meaning of Section 409; Section 402(a)(3), the article consisted in whole or in part of a filthy, putrid, or decomposed substance, or it was otherwise unfit for food; Section 402(a)(4), the article had been prepared, packed, or held under insanitary conditions whereby it might have become contaminated with filth or might have been rendered injurious to health; Section 402(b)(1), a valuable constituent had been in whole or in part omitted or abstracted from the article; Section 402(b)(2), a substance had been substituted in whole or in part for the article; Section 402(b)(4), a substance had been added to the article so as to make it appear better or of greater value than it was; Section 408(a), a poisonous or deleterious pesticide chemical, or a pesticide chemical not generally recognized, among qualified experts, as safe for use, added to a raw agricultural commodity, was deemed to be unsafe because no tolerance or exemption from the requirement of a tolerance for such pesticide chemical in or on the raw agricultural commodity had been prescribed by the Secretary of Health, Education, and Welfare; and Section 409, a food additive was deemed to be unsafe because the food additive and its use or intended use failed to conform to the terms of an effective exemption or because there was not in effect, or the food additive and its use or intended use failed to be in conformity with, a regulation prescribing conditions for safe use.

Misbranding, Section 403(a), the labeling of the article was false and misleading; Section 403(e), the article was in package form, and it failed to bear a label containing (1) the name and place of business of the manufacturer, packer, or distributor, and (2) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count; Section 403(h)(1), the article purported to be or was represented as a food for which a standard of quality had been prescribed by regulations, and its quality fell below such standard; Section 403(i)(2), the article was not subject to the provisions of Section 403(g), and the article was fabricated from two or more ingredients, and its label failed to bear the common or usual name of each such ingredient; and Section 403(k), the article contained artificial coloring and failed to bear labeling stating that fact.

BEVERAGES AND BEVERAGE MATERIALS

30201. Green coffee beans. (F.D.C. No. 50946. S. No. 42-247 B.)

QUANTITY: A commingled lot of 75 150-lb. bags at New Orleans, La.

SHIPPED: Prior to 12-16-64, from Colombia, S.A.

LIBELED: 2-12-65, E. Dist. La.

CHARGE: 400(a)(3)—contained insects and insect-damaged coffee beans while held for sale.

DISPOSITION: 3-18-65. Consent—claimed by Buckley & Forstall, Inc., New Orleans, La. Reconditioned and segregated; 7 bags destroyed.

30202. Tea bags. (F.D.C. No. 51142. S. No. 27-006 B.)

QUANTITY: 48 cases of 48 1½-oz. boxes, each box containing 16 tea bags, at Hopkins, Minn.

SHIPPED: 12-7-64, from Chicago, Ill., by Mid-West Tea Packing Co.

LABEL IN PART: (Box) "16—Tea Bags—Distributed by Super Valu Stores, Inc., Minneapolis."

RESULTS OF INVESTIGATION: The article was approximately 14.0 percent short weight.

LIBELED: 3-8-65, Dist. Minn.

CHARGE: 403(e)(2)—when shipped, the article failed to bear a label containing an accurate statement of the quantity of contents.

DISPOSITION: 4-28-65. Default—delivered to charitable institutions.

30203. Wine. (F.D.C. No. 51072. S. No. 81-758 A.)

QUANTITY: 6,113 gals. at Jersey City, N.J.

SHIPPED: 11-20-64, from Tulare, Calif.

RESULTS OF INVESTIGATION: Investigation showed that the rail car containing this article fell from a barge and was completely submerged in the Harlem River in New York City for a period of approximately 2 days before being removed. Both compartments of the car were equipped with an unobstructed 3/16-inch air vent tube which could allow the river water to enter the compartments.

LIBELED: On or about 2-9-65, Dist. N.J.

CHARGE: 402(a)(4)—held under insanitary conditions while in interstate commerce.

DISPOSITION: 3-22-65. Default—destruction.

CEREALS AND CEREAL PRODUCTS

FLOUR*

30204. Flour. (F.D.C. No. 51206. S. No. 16-000 A.)

INFORMATION FILED: 4-15-65, Dist. Mass., against Quinzani Bros., Inc., a corporation, Boston, Mass., and Alfred A. Quinzani, president.

ALLEGED VIOLATION: Between 10-27-64 and 10-30-64, while a quantity of flour was being held for sale after shipment in interstate commerce, the defendants caused the article to be held in a building that was accessible to insects, and to be exposed to contamination by insects, by causing the article to be placed in insect-contaminated flour conveying equipment, which act resulted in the article being adulterated.

CHARGE: 402(a)(3)—contained insects and insect parts; and 402(a)(4)—held under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 6-15-65. Corporation—\$750 fine; individual—\$250 fine.

*See also No. 30239.

30205. Flour. (F.D.C. No. 50466. S. No. 8-849 X.)

INFORMATION FILED: 9-23-64, Dist. R.I., against Standard Wholesale Co., Inc., Newport, R.I.

ALLEGED VIOLATION: Between 9-17-63 and 12-5-63, the defendant caused flour, while held for sale after shipment in interstate commerce, to be held in a building accessible to rodents and to be exposed to contamination by rodents, which acts resulted in the article being adulterated.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 11-20-64. \$50 fine.

30206. Flour. (F.D.C. No. 50941. S. No. 23-403 B.)

QUANTITY: 312 25-lb. bags, at Brenham, Tex., in possession of L. Hausman, Inc.

SHIPPED: 1-8-65, from Salina, Kans.

LIBELED: 2-1-65, W. Dist. Tex.

CHARGE: 402(a)(3)—contained rodent excreta pellets, rodent urine, and was rodent gnawed; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 3-22-65. Default—destruction.

30207. Flour. (F.D.C. No. 51088. S. Nos. 14-623/5 B.)

QUANTITY: 19 100-lb. bags, 108 25-lb. bags, and 16 100-lb. bags, at Silver City, N. Mex., in possession of Alfred M. Lewis Co., Inc.

SHIPPED: Between 10-10-64 and 12-7-64, and on other unknown date, from Wichita, Kans.

LIBELED: 3-3-65, Dist. N. Mex.

CHARGE: 402(a)(3)—contained bird excreta; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 4-9-65. Default—delivered to a Federal institution for use as animal feed.

30208. Flour (2 seizure actions). (F.D.C. No. 51078. S. Nos. 56-191/2 B.)

QUANTITY: 52 25-lb. bags and 65 100-lb. bags, at Charleston, W. Va., in possession of Elk Grocery Co.

SHIPPED: 10-17-64 and 11-25-64, from Buhler, Kans., and Louisville, Ky.

LIBELED: 2-15-65, S. Dist. W. Va.

CHARGE: 402(a)(3)—contained rodent urine, rodent hairs, and was rodent gnawed; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 3-10-65. Default—delivered to a public institution for use as animal feed.

30209. Flour. (F.D.C. No. 51090. S. Nos. 36-402/03 B.)

QUANTITY: 31 100-lb. bags, at Jersey City, N.J., in possession of A. Oliveri & Sons.

SHIPPED: 1-5-65 and 1-7-65, from East Buffalo, N.Y.

LIBELED: On or about 3-4-65, Dist. N.J.

CHARGE: 402(a)(3)—contained bird excreta, bird feathers, and nondescript foreign material; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 6-21-65. Default—destruction.

30210. Flour. (F.D.C. No. 51154. S. No. 22-161 B.)

QUANTITY: 254 100-lb. bags, at El Paso, Tex., in possession of Economy Cash & Carry, Inc.

SHIPPED: 2-19-65, from Hutchinson, Kans.

LIBELED: 3-30-65, W. Dist. Tex.

CHARGE: 402(a)(3)—contained rodent urine and was rodent gnawed; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 4-20-65. Consent—claimed by Economy Cash & Carry, Inc. Segregated; 40 100-lb. bags denatured for use as animal feed.

30211. Flour. (F.D.C. No. 51265. S. No. 43-415 B.)

QUANTITY: 500 100-lb. bags at Charlestown, Mass.

SHIPPED: 3-11-65, from Kansas City, Mo.

RESULTS OF INVESTIGATION: Examination of the article while in the railroad car in which transported showed that it had been contaminated by rodents before being unloaded.

LIBELED: 4-15-65, Dist. Mass.

CHARGE: 402(a)(3)—while in interstate commerce, the article was rodent gnawed; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 5-24-65. Consent—claimed by Boston & Maine Corp., Boston, Mass., and denatured for tanning use only.

30212. Flour. (F.D.C. No. 51273. S. No. 17-356 B.)

QUANTITY: 19 100-lb. bags, at Phoenix, Ariz., in possession of Alfred M. Lewis, Inc.

SHIPPED: 1-26-65, from Silver City, N. Mex.

LIBELED: 4-21-65, Dist. Ariz.

CHARGE: 402(a)(3)—contained bird excreta; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 7-15-65. Default—destruction.

30213. Flour. (F.D.C. No. 51503. S. No. 22-859 B.)

QUANTITY: 100 100-lb. bags, at Houston, Tex., in possession of Henke & Pillot, Inc.

SHIPPED: 5-14-65, from Denver, Colo.

LIBELED: 6-29-65, S. Dist. Tex.

CHARGE: 402(a)(3)—contained insects; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 7-29-65. Default—destruction.

30214. Flour. (F.D.C. No. 51458. S. No. 41-818 B.)

QUANTITY: 282 25-lb. bags, at Opp, Ala.

SHIPPED: 4-26-65, from Liberal, Kans.

LIBELED: 7-26-65, M. Dist. Ala.

CHARGE: 402(a)(3)—contained insects while held for sale.

DISPOSITION: 9-15-65. Default—destruction.

30215. Donut flour. (F.D.C. No. 50839. S. No. 5-612 A.)

QUANTITY: 141 100-lb. bags at Winston-Salem, N.C., in possession of E. G. Forrest Co., Inc.

SHIPPED: 7-9-64, from Lincoln, Nebr.

LIBELED: 11-20-64, M. Dist. N.C.

CHARGE: 402(a)(3)—contained insects, insect larvae, and insect parts; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 1-7-65. Consent—claimed by E. G. Forrest Co., Inc., and converted into animal feed.

MISCELLANEOUS CEREALS AND CEREAL PRODUCTS

30216. Wheat. (Inj. No. 493.)

COMPLAINT FOR INJUNCTION FILED: 6-24-64, Dist. S. Dak., against Wetonka Equity Exchange, a corporation, Wetonka, S. Dak., James Blomster, president, and Leslie O. Holland, manager.

CHARGE: The complaint alleged that the defendants were engaged in operating a grain elevator facility which included a wooden crib-type elevator sheathed with corrugated sheet metal and lined with concrete in the areas under the main dump pit and boot pit, and denominated as Elevator No. 1, and a wooden crib-type grain elevator sheathed with wooden siding, denominated as Elevator No. 2, for the storage and distribution of wheat for human consumption,

The complaint alleged further that the wheat consisted in part of a filthy substance by reason of the presence of mice, insects, bird excreta, and rodent excreta in the food; and that such food had been and was then being held at the defendants' grain elevator facility at Wetonka, S. Dak., under insanitary conditions whereby it might have become contaminated with filth, thereby rendering such food adulterated within the meaning of 402(a)(3) and 402(a)(4); that insanitary conditions of the defendants' grain elevator facility at Wetonka, S. Dak., resulted from and consisted of the presence in the wooden crib-type grain elevator sheathed with wooden siding and denominated as Elevator No. 2 of the following: on and adjacent to the main floor of Elevator No. 2, 2 live mice in the northwest corner of bin No. 12, 1 dead mouse in the grain cleaner, 4 rodent holes in the south wall at the level of the main floor, approximately 6 rodent pellets in an area of less than $\frac{1}{4}$ square foot on the floor adjacent to the bottom of bin No. 11, a rodent hole in the northwest corner of bin No. 12 approximately 12 inches from the floor, approximately 6 rodent pellets in a $\frac{1}{4}$ square foot area adjacent to bin No. 1, 4 holes in the outside wall along the south side of the driveway and 3 feet above the driveway, approximately 50 rodent pellets in an area of less than $\frac{1}{2}$ square foot proximate to the bottom of bin No. 11, a hole approximately 5 inches in diameter beneath the south side of the elevator, a hole approximately $1\frac{1}{2}$ inches in diameter in the southeast corner of the elevator foundation, an outside south door leading underneath the elevator cracked open ap-

proximately $1\frac{1}{2}$ inches, and a dead mouse in the boot pit; in and about the bins of Elevator No. 2, more than 15 rodent pellets per pint in every sample collected from the grain surface, insects or insect larvae or cast skins in more than three-fourths of such samples, bird droppings or bird feathers or a piece of bird wing in more than one-third of such samples, approximately 308 rodent pellets per pint of surface wheat in the northwest corner of bin No. 4, and approximately 68 rodent pellets per $\frac{1}{2}$ pint of surface wheat in the northeast corner of bin No. 11, a rodent hole in bin No. 4 at the roof-wall junction 4 feet from the north wall, a rodent nest in the surface wheat at the southeast corner of bin No. 4, a rodent nest on the surface grain of bin No. 1, 4 feet from the south wall and 3 feet from the west wall, a live mouse on the wall plate at the back of bin No. 1, a rodent hole at the roof-wall junction 4 feet from the south wall of bin No. 1, a live mouse about a crack in the bottom of the door frame of bin No. 1, a dead mouse in the surface grain of bin No. 9, and rodent tracks on the surfaces of all binned grain; in and about the head house of Elevator No. 2, old grain residue up to $\frac{1}{2}$ foot deep about the bin selector, a bird entryway in the northeast corner at the roof-wall junction, a live bird in the head house, and bird droppings over the entire head-house floor; and in and about the gallery floor of Elevator No. 2, approximately 50 bird droppings on the floor between bins No. 9 and No. 11, and approximately 100 bird droppings in less than a $\frac{1}{4}$ square foot area below and 1 foot to the right of the south window.

DISPOSITION: On 6-24-64, a temporary restraining order was filed, and on 7-6-64, a decree of preliminary injunction was filed.

The decree enjoined the defendants from directly or indirectly introducing or causing to be introduced and delivering or causing to be delivered for introduction into interstate commerce, wheat for human consumption and any similar article of food, which was adulterated within the meaning of 402(a)(3) in that it consisted in part of a filthy substance, and 402(a)(4) in that it had been held under insanitary conditions whereby it might have become contaminated with filth.

The decree further enjoined the defendants from directly or indirectly introducing or causing to be introduced and delivering or causing to be delivered for introduction into interstate commerce, wheat for human consumption and any similar article of food for human consumption held at defendants' wooden crib-type grain elevator sheathed with wooden siding and denominated as Elevator No. 2, at Wetonka, S. Dak., unless and until:

(a) the Elevator No. 2 was thoroughly cleaned and renovated and rendered suitable for use in connection with the storage of wheat for human consumption and any similar article of food, namely, unless and until all rodents, insects, and birds and all the filth thereof, were removed from Elevator No. 2; all rodent, insect, and bird infestation in and about Elevator No. 2 was eliminated; the means of ingress and egress of Elevator No. 2 by rodents and birds were closed; and any similar insanitary conditions which might result in wheat for human consumption and any similar article of food being contaminated with filth while held at Elevator No. 2 were eliminated;

(b) all of the wheat which was on hand at Elevator No. 2 at the time Elevator No. 2 was cleaned, renovated, and rendered suitable for the storage of food for human consumption was destroyed, denatured for use as animal feed, or cleaned and otherwise reconditioned under the supervision of a duly

authorized representative of the Food and Drug Administration, Department of Health, Education, and Welfare.

On 8-13-65, after it was found that the defendants would not be using Elevator No. 2 for the storage of grain in the future and that the defendants had complied with the injunction with respect to the wheat on hand, the injunction was dissolved and the case dismissed pursuant to stipulation of the parties.

30217. Wheat. (F.D.C. No. 50912. S. No. 122-551 A.)

QUANTITY: 113,920 lbs. of wheat at Minneapolis, Minn.

SHIPPED: 12-11-64, from Faith, S. Dak., by Bagley Grain Co.

LIBELED: 1-7-65, Dist. Minn.

CHARGE: 402(a)(2)(B)—when shipped, the article was a raw agricultural commodity and contained a pesticide chemical, a mercurial compound, which was unsafe within the meaning of 408(a) since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on wheat had been prescribed by regulations.

DISPOSITION: 1-13-65. Consent—claimed by Bagley Grain Co., Minneapolis, Minn., and denatured.

30218. Wheat. (F.D.C. No. 51166. S. No. 28-408 B.)

QUANTITY: 130,000 lbs. at Minneapolis, Minn.

SHIPPED: 3-15-65, from Michigan, N. Dak., by Lamb Elevator Co.

LIBELED: 4-14-65, Dist. Minn.

CHARGE: 402(a)(2)(B)—when shipped, the article was a raw agricultural commodity and contained a pesticide chemical, a mercurial compound, which was unsafe within the meaning of 408(a), since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on wheat had been prescribed by regulations.

DISPOSITION: 4-27-65. Consent—claimed by Lamb Elevator Co., Michigan, N. Dak., and denatured for use as seed grain.

30219. Wheat. (F.D.C. No. 51198. S. No. 9-291 B.)

QUANTITY: 90,000 lbs. at Spokane, Wash.

SHIPPED: 5-11-65, from Toston, Mont., by Teslow, Inc.

LIBELED: 5-21-65, E. Dist. Wash.

CHARGE: 402(a)(3)—contained rodent pellets when shipped.

DISPOSITION: 5-27-65. Consent—claimed by Atwood Larson Co., Portland, Oreg., and denatured.

30220. Wheat. (F.D.C. No. 50727. S. No. 57-883 A.)

QUANTITY: 130,500 lbs. at Kansas City, Kans.

SHIPPED: 10-14-64, from Hildreth, Nebr., by Farmers Cooperative Grain & Live-stock Association.

LIBELED: 10-28-64, Dist. Kans.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 11-25-64. Consent—claimed by Farmers Union Cooperative Marketing Association. Segregated; 26,940 lbs. denatured.

30221. Wheat. (F.D.C. No. 51423. S. No. 10-121 B.)

QUANTITY: 99,000 lbs. at Spokane, Wash.

SHIPPED: 5-7-65, from Geraldine, Mont., by Greeley Elevator Co.

LIBELED: 5-25-65, E. Dist. Wash.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 5-28-65. Consent—claimed by Greeley Elevator Co., and denatured for use as animal feed.

30222. Wheat. (F.D.C. No. 49315. S. No. 35-661 X.)

QUANTITY: 120,000 lbs. at Duluth, Minn.

SHIPPED: 8-23-63, from Linton, N. Dak., by Farmers' Union Grain Terminal Association.

LIBELED: 9-16-63, Dist. Minn.

CHARGE: 402(a)(2)(B)—when shipped, the article was a raw agricultural commodity and contained a pesticide chemical, a mercurial compound, which was unsafe within the meaning of 408(a), since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on wheat had been prescribed by regulations.

DISPOSITION: 9-24-63. Consent—claimed by Farmers Union Grain Terminal Association, St. Paul, Minn., and reconditioned.

30223. Wheat. (F.D.C. No. 49283. S. Nos. 33-168 X, 34-210 X.)

QUANTITY: 90,000 lbs. at Superior, Wis.

SHIPPED: 7-25-63, from Drake, N. Dak., by Drake Farmers Elevator.

LIBELED: 8-23-63, W. Dist. Wis.

CHARGE: 402(a)(2)(B)—when shipped, the article was a raw agricultural commodity and contained a pesticide chemical, a mercurial compound, which was unsafe within the meaning of 408(a), since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on wheat had been prescribed by regulations.

DISPOSITION: 9-9-63. Consent—claimed by Drake Farmers Elevator Co. Reconditioned; 32,450 lbs. segregated as unfit and destroyed.

30224. Wheat. (F.D.C. No. 51469. S. No. 10-133 B.)

QUANTITY: 118,320 lbs. at Spokane, Wash.

SHIPPED: 7-19-65, from McClusky, N. Dak., by Cooperative Elevator of McClusky.

LIBELED: 8-3-65, E. Dist. Wash.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 8-9-65. Consent—claimed by Cooperative Elevator of McClusky, and denatured for use as animal feed.

30225. Wheat. (F.D.C. No. 51447. S. No. 91-820 B.)

QUANTITY: 120,000 lbs. at Detroit, Mich.

SHIPPED: 6-17-65, from Sedamsville, Ohio, by Early & Daniels Co.

LIBELED: 6-25-65, E. Dist. Mich.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: On or about 7-14-65. Consent—claimed by the Early & Daniels Co., Inc., Cincinnati, Ohio, and converted to animal feed.

30226. Wheat. (F.D.C. No. 51462. S. No. 10-129 B.)

QUANTITY: 118,200 lbs. at Spokane, Wash.

SHIPPED: 7-16-65, from Meriweather, Mont., by Montana Wheat Growers, Inc.

LIBELED: 7-22-65, E. Dist. Wash.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 8-4-65. Consent—claimed by Atwood Larson Co., Portland, Oreg., and denatured for use as animal feed.

30227. Wheat. (F.D.C. No. 51459. S. No. 10-127 B.)

QUANTITY: 111,030 lbs. at Spokane, Wash.

SHIPPED: 7-7-65, from Ashley, N. Dak., by Farmers Feed Co.

LIBELED: 7-19-65, E. Dist. Wash.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 7-22-65. Consent—claimed by Bunge Corp., New York, N.Y., and denatured for use as animal feed.

30228. Wheat. (F.D.C. No. 51468. S. No. 10-135 B.)

QUANTITY: 110,400 lbs. at Spokane, Wash.

SHIPPED: 7-21-65, from Tuttle, N. Dak., by Tuttle Farmers Elevator.

LIBELED: 8-3-65, E. Dist. Wash.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 8-12-65. Consent—claimed by Bunge Corp., New York, N.Y., and denatured for use as animal feed.

30229. Oats. (Inj. No. 503.)

COMPLAINT FOR INJUNCTION FILED: 1-26-65, Dist. S. Dak., against Farmers Cooperative Elevator Co., a corporation, Revillo, S. Dak., Henry Hennings, president, and Ellsworth C. Johnson, manager.

CHARGE: The complaint alleged that the defendants were engaged in operating at Revillo, S. Dak., a grain storage facility which included 3 crib-type upright structures, 20 butler-type steel bins, and a quonset-type flat-storage building constructed of corrugated metal sheeting for the storage and distribution of oats for human consumption; and had been and were then introducing and causing to be introduced and delivering and causing to be delivered for introduction into interstate commerce, such food which was adulterated within the meaning of 402(a)(3) and 402(a)(4).

The complaint alleged further that the food had been and was then being held at the defendants' grain storage facility at Revillo, S. Dak., under insanitary conditions whereby it might have been rendered injurious to health as a result of the careless use of a rodenticide and whereby it might have become contaminated with filth, and that such food consisted in part of a filthy substance by reason of the presence of live and dead mice, rodent excreta, and bird droppings in the food, thereby rendering it adulterated within the meaning of 402(a)(3) and 402(a)(4).

The complaint alleged also that the insanitary conditions of the defendants' grain storage facility at Revillo, S. Dak., resulted from and consisted of the

presence in the quonset-type flat-storage building constructed of corrugated metal sheeting of the following: 3 open, unprotected, unsecured, glass ashtrays containing a thallium sulfate liquid rodenticide resting on small squares of cardboard at the surface of the oats near the west end of the building, 1 open, unprotected, unsecured, glass ashtray containing a thallium sulfate liquid rodenticide resting on a small square of cardboard at the surface of the oats near the northeast corner of the building, a dead mouse at the surface of the oats near the northeast corner of the building, a live mouse observed inside the door of the building, numerous rodent trails on the surface of the oats, approximately 200 rodent pellets on a ledge directly over the oats at the building's west end, approximately 50 mouse pellets per quart of surface oats near the center of the building's west end, approximately 50 rodent pellets per quart of surface oats approximately 6 feet from the building's southwest corner, approximately 5 rat pellets and approximately 10 mouse pellets per quart of the surface oats in the building's southwest corner, bird droppings in the oats in an area near the building's entrance and bird droppings on the interior beams of the building's east wall directly over the building's east doors.

DISPOSITION: On 1-26-65, a temporary restraining order was filed, and on 2-5-65, a consent decree of preliminary injunction was filed.

The decree enjoined *pendente lite* the defendants from directly or indirectly introducing or causing to be introduced and delivering or causing to be delivered for introduction into interstate commerce, oats and any similar article of food which was adulterated within the meaning of 402(a)(3) in that it consisted in part of a filthy substance, and 402(a)(4) in that it had been held under insanitary conditions whereby it might have become contaminated with filth, or whereby it might have been rendered injurious to health.

The decree further enjoined *pendente lite* the defendants from directly or indirectly introducing or causing to be introduced and delivering or causing to be delivered for introduction into interstate commerce, oats and any similar article of food held at defendants' quonset-type flat-storage building constructed of corrugated metal sheeting, at Revillo, S. Dak., unless and until:

(a) the building was thoroughly cleaned and renovated and rendered suitable for use in connection with the storage of oats for human consumption and any similar article of food, namely, unless and until all rodents, rodent filth, and bird filth were removed from the building; all rodent infestation in and about the building was eliminated; the means of ingress and egress of the building by rodents were closed; all containers for the dispensing of liquid rodenticide and any other bait stations used in the building for the dispensing of any rodenticide were firmly attached to the building or otherwise secured against being overturned; all containers for the dispensing of liquid rodenticide and other bait stations used in the building for the dispensing of any rodenticide were constructed so as to provide for the adequate and secure containment, by blotting, by a leak-proof receptacle or by other means, of any rodenticide which might be spilled, and to provide that no rodenticide should come in contact with or be mingled with oats or any similar article of food; and any similar insanitary conditions which might result in

oats and any similar article of food being contaminated with rodenticide filth while held at the building were eliminated;

(b) all of the thallium sulfate rodenticide was removed from all of the defendants' food storage structures and the use of any thallium sulfate rodenticide was permanently discontinued in all such food storage structures; or in the alternative, (i) all personnel having access to such structures were made fully aware that a thallium sulfate rodenticide was being used and were fully informed of its highly toxic nature and of the necessity for protecting stored foods from contamination by it, (ii) all thallium sulfate liquid rodenticide was colored with 0.5% nigrosine black dye, (iii) responsibility for control of thallium sulfate rodenticide in use in such food storage structures was vested in one person of established reliability, and this person was fully informed as to the acceptable procedures for use of thallium sulfate rodenticide and as to the potential hazards of careless use, and (iv) records were maintained which showed the location and amounts of thallium sulfate rodenticide used; and

(c) all of the oats which were on hand at the building at the time the building was cleaned, renovated, and rendered suitable for the storage of food for human consumption were destroyed, denatured for use as animal feed, or cleaned and otherwise reconditioned under the supervision of a duly authorized representative of the Food and Drug Administration, Department of Health, Education, and Welfare.

On 5-17-65, after an inspection of the subject premises by the representatives of the Food and Drug Administration, Department of Health, Education, and Welfare, showed satisfactory sanitary conditions existed at the elevator, the injunction was dissolved and the case dismissed pursuant to stipulation.

30230. Oats. (F.D.C. No. 50247. S. No. 57-132 A.)

QUANTITY: 100,000 lbs. at Sioux City, Iowa.

SHIPPED: 5-29-64, from Viborg, S. Dak., by Viborg Cooperative Elevator Association.

LIBELED: 7-2-64, N. Dist. Iowa.

CHARGE: 402(a)(2)(B)—when shipped, the article was a raw agricultural commodity and contained a pesticide chemical, a mercurial compound, which was unsafe within the meaning of 408(a) since no tolerance or exemption from the requirement of a tolerance for mercurial compounds on oats had been prescribed by regulations.

DISPOSITION: 11-2-64. Consent—claimed by Viborg Cooperative Elevator Association and denatured for use as seed.

30231. Oats. (F.D.C. No. 51470. S. No. 107-622 B.)

QUANTITY: 73,600 lbs. at Minneapolis, Minn.

SHIPPED: 7-19-65, from Adrian, N. Dak., by Adrian Equity Elevator Co.

LIBELED: 8-6-65, Dist. Minn.

CHARGE: 402(a)(2)(B)—when shipped, the article was a raw agricultural commodity and contained a pesticide chemical, a mercurial compound, which was unsafe within the meaning of 408(a), since no tolerance and no exemption from the requirement of a tolerance for such pesticide chemical on oats had been prescribed by regulations.

DISPOSITION: 8-19-65. Consent—destruction.

30232. Oats. (F.D.C. No. 51180. S. Nos. 28-819 B, 29-679 B.)

QUANTITY: 90,000 lbs. at Minneapolis, Minn.

SHIPPED: 4-13-65, from Woods, N. Dak., by Woods Farmers Cooperative Elevator Co.

LIBELED: 5-5-65, Dist. Minn.

CHARGE: 402(a)(2)(B)—when shipped, the article was a raw agricultural commodity and contained a pesticide chemical, a mercurial compound, which was unsafe within the meaning of 408(a) since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on oats had been prescribed by regulations.

DISPOSITION: 5-14-65. Consent—claimed by Woods Farmers Cooperative Elevator Co., Woods, N. Dak. Reconditioned; 5,300 lbs. destroyed.

30233. Unpopped popcorn. (F.D.C. No. 50998. S. No. 22-303 B.)

QUANTITY: 79 bales, each containing 4 unlabeled 12½-lb. cello bags, and 17 unlabeled 12½-lb. cello bags, at Seagoville, Tex., in possession of Gibson Products, Inc.

SHIPPED: 12-4-64, from Kansas City, Mo.

LIBELED: 2-3-65. N. Dist. Tex.

CHARGE: 402(a)(3)—contained rodent excreta pellets, rodent hair, and was rodent gnawed; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 4-15-65. Consent—claimed by Gibson Products Co., Seagoville, Tex. Segregated and reconditioned; 638 lbs. denatured.

30234. Unpopped popcorn. (F.D.C. No. 51194. S. No. 128-543 B.)

QUANTITY: 100 cases, of 12 2-lb. bags, at Little Rock, Ark.

SHIPPED: 4-7-65, from Milford, Ill., by Alver Bros. Co.

LABEL IN PART: (Bag) "Buddy Boy Yellow Hybrid Popcorn * * * Alver Brothers Company—Milford, Ill."

LIBELED: 5-19-65, E. Dist. Ark.

CHARGE: 402(a)(3)—contained bird excreta and rodent-gnawed kernels; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 6-16-65. Default—delivered to a charitable institution for use as animal feed.

30235. Rice. (F.D.C. No. 51550. S. No. 62-011 B.)

QUANTITY: 73 25-lb. bags at Hagerstown, Md.

SHIPPED: 5-10-65, from Stuttgart, Ark.

LIBELED: 8-10-65, Dist. Md.

CHARGE: 402(a)(3)—contained insects while held for sale.

DISPOSITION: 9-9-65. Default—destruction.

30236. Rice. (F.D.C. No. 51014. S. No. 36-582 B.)

QUANTITY: 119 25-lb. bags, at Perth Amboy, N.J., in possession of Flagstaff Food Corp.

SHIPPED: Between 10-16-64 and 12-4-64, from New York, N.Y.

LIBELED: 2-18-65, Dist. N.J.

CHARGE: 402(a)(4)—held under insanitary conditions.

DISPOSITION: 3-25-65. Consent—claimed by Flagstaff Food Corp. Segregated; 175 lbs. destroyed.

30237. Rolled oats, macaroni, elbow macaroni, pinto beans, sugar, and potatoes.
(F.D.C. No. 50462. S. Nos. 15-953 X, 15-956/7 X, 30-312 A, 30-314/15 A.)

INFORMATION FILED: 9-22-64, E. Dist. Tenn., against Smotherman-Womack Co., Inc., Tullahoma, Tenn.

ALLEGED VIOLATION: Between 1-16-63 and 1-30-64, while quantities of rolled oats, macaroni, elbow macaroni, pinto beans, sugar, and potatoes were being held for sale after shipment in interstate commerce, the defendants caused the articles to be held in a building that was accessible to insects and rodents and to be exposed to contamination by insects and rodents, which acts resulted in the articles being adulterated.

CHARGE: 402(a)(3)—contained insects, insect larvae, cast skins, and rodent and mouse pellets; and 402(a)(4)—held under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 2-1-65. \$600 fine.

30238. Donut mix. (F.D.C. No. 51039. S. No. 14-924 A.)

INFORMATION FILED: 4-28-65, Dist. Conn., against Berkshire Bakers, Inc., Bridgeport, Conn., and Raymond T. Iwanicki, president and treasurer.

ALLEGED VIOLATIONS: Between 9-12-63 and 9-3-64, while quantities of donut mix were being held for sale after shipment in interstate commerce, the defendants caused the article to be held in a building that was accessible to rodents and to be exposed to contamination by rodents, which act resulted in the article being adulterated.

CHARGE: 402(a)(3)—was rodent gnawed and contained rodent excreta; and 402(a)(4)—held under insanitary conditions.

PLEA: Nolo contendere.

DISPOSITION: 7-19-65. Corporation—\$1,000 fine; individual—probation for 2 years.

30239. Cornmeal mix and flour. (F.D.C. No. 50971. S. Nos. 114-182/3 A.)

QUANTITY: 175 25-lb. bags of cornmeal mix and 168 bales of 2 25-lb. bags each of flour at Huntington, W. Va., in possession of Davis Wholesale Co., Inc.

SHIPPED: 10-30-64 and 12-7-64, from Hopkinsville and Louisville, Ky.

LIBELED: 1-11-65, S. Dist. W. Va.

CHARGE: 402(a)(3)—the articles were rodent gnawed, and the cornmeal contained rodent excreta pellets; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 3-30-65. Consent—claimed by Davis Wholesale Co., Inc. Reconditioned; 129 bags of cornmeal mix denatured and 147 bags of flour denatured; 46 bags of cornmeal mix and 43 bags of flour destroyed.

30240. Cornmeal mix. (F.D.C. No. 50977. S. No. 114-184 A.)

QUANTITY: 187 bales, each containing 10 5-lb. bags, at Huntington, W. Va., in possession of Davis Wholesale Co., Inc.

SHIPPED: 11-23-64 and 12-7-64, from Hopkinsville, Ky.

LIBELED: 1-12-65, S. Dist. W. Va.

CHARGE: 402(a) (3)—contained rodent hairs, rodent pellets, and was rodent gnawed; and 402(a) (4)—held under insanitary conditions.

DISPOSITION: 3-10-65. Consent—claimed by Davis Wholesale Co., Inc.; 31 bales destroyed and the remainder denatured.

EGGS

30241. Frozen eggs (2 seizure actions). (F.D.C. Nos. 49976; 49996. S. Nos. 85-528/30 A.)

QUANTITY: 94 30-lb. unlabeled cans and 111 30-lb. unlabeled cans, at Philadelphia, Pa., in possession of New York Creamery Corp., Inc.

SHIPPED: The 94-can lot and part of the 111-can lot were shipped between 3-14-64 and 3-25-64, from Vineland, N.J. A part of the 111-can lot was prepared by the dealer from shell eggs received from unknown sources.

LIBELED: 4-16-64 and 4-30-64, E. Dist. Pa.

CHARGE: 402(a) (3)—contained decomposed eggs while held for sale.

DISPOSITION: 6-30-65. Default—destruction.

30242. Frozen eggs. (F.D.C. No. 51001. S. No. 18-046 A.)

QUANTITY: 452 30-lb. cans at Watertown, Mass.

SHIPPED: 12-7-64, from York, Nebr., by Standard Brands, Inc.

LABEL IN PART: (Can) "Frozen Whole Eggs * * * Fleischman's * * * Standard Brands Incorporated New York, N.Y."

LIBELED: 2-1-65, Dist. Mass.

CHARGE: 402(a) (1)—when shipped, the article contained an added poisonous and deleterious substance, Salmonella micro-organisms, which may have rendered it injurious to health.

DISPOSITION: 3-10-65. Consent—claimed by Standard Brands, Inc., New York, N.Y. Segregated and reconditioned; 54 cans denatured.

30243. Frozen eggs. (F.D.C. No. 51091. S. Nos. 38-010 B, 38-450 B.)

QUANTITY: 104 30-lb. cans and 167 30-lb. cans at New York, N.Y.

SHIPPED: 1-20-65, from Willimantic, Conn., by Central Conn. Cooperative Farmers Association, Inc., and from Lakewood, N.J., by Allendale Farms.

LABEL IN PART: (Sticker on can lid) "Central Conn. Co-op 85 Milk Street Willimantic Conn * * * Frozen Whole Eggs" and "Frozen Whole Eggs Allendale * * * RD #2 Lakewood, N.J."

LIBELED: 2-26-65, S. Dist. N.Y.

CHARGE: 402(a) (3)—contained decomposed eggs when shipped.

DISPOSITION: 5-7-65. Consent—claimed by L. Rudolf Co., Inc.; 185 cans segregated and denatured.

30244. Frozen eggs. (F.D.C. No. 50956. S. No. 1-959 B.)

QUANTITY: 31 30-lb. cans at Cincinnati, Ohio.

SHIPPED: 1-4-65, from Greensburg, Ind., by Vines Egg Co., Inc.

LABEL IN PART: (Can) "Whole Eggs Packed by Vines Egg Co. Inc. 127 S. Monfort St. Greensburg, Ind."

LIBELED: 2-19-65, S. Dist. Ohio.

CHARGE: 402(a)(1)—when shipped, the article contained an added poisonous and deleterious substance, Salmonella micro-organisms, which may have rendered it injurious to health.

DISPOSITION: 3-17-65. Default—destruction.

30245. Frozen eggs. (F.D.C. No. 50833. S. No. 81-200 A.)

QUANTITY: 100 30-lb. cans at Brooklyn, N.Y.

SHIPPED: 8-7-64, from Chicago, Ill., by V. Jas. Benincasa Co.

LABEL IN PART: (Can) "Whole Eggs * * * Distributed by V. Jas. Benincasa Co. Zanesville, Ohio."

LIBELED: 11-20-64, E. Dist. N.Y.

CHARGE: 402(a)(1)—when shipped, the article contained an added poisonous and deleterious substance, Salmonella micro-organisms, which may have rendered it injurious to health.

DISPOSITION: 2-24-65. Default—destruction.

30246. Frozen eggs. (F.D.C. No. 51073. S. No. 44-006 B.)

QUANTITY: 32 30-lb. cans at Providence, R.I.

SHIPPED: Between 12-1-64 and 12-31-64, from Danielson and Brooklyn, Conn.

RESULTS OF INVESTIGATION: The article was prepared and packed by Oak Tree Farm, Providence, R.I., from shell eggs shipped as described above.

LIBELED: 2-12-65, Dist. R.I.

CHARGE: 402(a)(3)—contained decomposed eggs while held for sale.

DISPOSITION: 3-12-65. Default—destruction.

30247. Frozen eggs. (F.D.C. No. 51429. S. No. 34-372 B.)

QUANTITY: 54 30-lb. cans, at Detroit, Mich.

SHIPPED: On unknown date, from Versailles, Ohio, by Weaver Bros., Inc.

LABEL IN PART: (Can) "Frozen Whole Eggs * * * Packed by Weaver Bros., Inc., Versailles, Ohio."

LIBELED: 6-11-65, E. Dist. Mich.

CHARGE: 402(a)(3)—contained decomposed eggs when shipped.

DISPOSITION: 7-22-65. Default—destruction.

30248. Frozen eggs. (F.D.C. No. 51524. S. No. 62-744 B.)

QUANTITY: 70 unlabeled cans, each containing 50 lbs. of frozen whole eggs, at Washington, D.C.

SHIPPED: 6-30-65, from Breezewood, Pa., by Bedford County Egg Industries, Inc.

LIBELED: 7-19-65, Dist. Columbia.

CHARGE: 402(a)(3)—contained decomposed eggs when shipped.

DISPOSITION: 8-24-65. Default—destruction.

30249. Frozen eggs. (F.D.C. No. 51157. S. No. 49-673 B.)

QUANTITY: 1,200 30-lb. cans at Buffalo, N.Y.

SHIPPED: 3-8-65, from Carlsbad, Calif., by Marja Acres, Inc.

LABEL IN PART: (Can) "Frozen Whole Eggs * * * Marja Acres Eggs Carlsbad California."

LIBELED: 4-2-65, W. Dist. N.Y.

CHARGE: 402(a)(3)—contained decomposed eggs when shipped.

DISPOSITION: 4-23-65. Consent—claimed by Marja Acres, Inc., Carlsbad, Calif. Reconditioned; 130 30-lb. cans denatured.

30250. Frozen eggs. (F.D.C. No. 51433. S. No. 34-373 B.)

QUANTITY: 1,200 30-lb. cans at Solon, Ohio.

SHIPPED: 5-20-65, from Pangburn, Ark.

LIBELED: 6-15-65, N. Dist. Ohio.

CHARGE: 402(a)(3)—contained decomposed eggs while held for sale.

DISPOSITION: 6-28-65. Consent—claimed by Tharp Bros. Co., Pangburn, Ark. Reconditioned; 7 cans denatured.

30251. Frozen egg whites. (F.D.C. No. 50991. S. No. 47-712 A.)

QUANTITY: 48 30-lb. cans at Albuquerque, N. Mex.

SHIPPED: 11-27-64, from Newton, Kans., by Hurst Products, Inc.

LABEL IN PART: (Can) "Frozen Egg Whites * * * Packed by Hurst Products Inc Newton, Kansas."

LIBELED: 1-29-65, Dist. N. Mex.

CHARGE: 402(a)(1)—when shipped, the article contained an added poisonous and deleterious substance, Salmonella micro-organisms, which may have rendered it injurious to health.

DISPOSITION: 3-5-65. Default—destruction.

30252. Frozen egg whites and frozen egg blend product. (F.D.C. No. 50689. S. Nos. 75-619/20 A.)

QUANTITY: 344 30-lb. cans of frozen egg whites, and 455 30-lb. cans of frozen egg blend product, at Jackson, Miss.

SHIPPED: 8-12-64, from Kansas City, Mo., by Monark Egg Corp.

LABEL IN PART: (Can) "Egg Whites * * * Packed for Monark Egg Corp Kansas City, Mo." and "Montex Contains Whole Eggs, Egg Yolks * * * Monark Egg Corp Kansas City, Mo."

LIBELED: 10-26-64, S. Dist. Miss.

CHARGE: 402(a)(1)—when shipped, the articles contained an added poisonous and deleterious substance, Salmonella micro-organisms, which may have rendered the articles injurious to health.

DISPOSITION: 3-10-65. Consent—claimed by Monark Egg Corp., and reconditioned by pasteurizing.

30253. Dried eggs. (F.D.C. No. 50958. S. No. 81-830 A.)

QUANTITY: 50 drums at Brooklyn, N.Y.

SHIPPED: 9-18-64, from Wakefield, Nebr., by Milton G. Waldbaum Co.

LABEL IN PART: (Drum) "Dried Whole Egg Solids * * * Stabilized * * * Packed by Milton G. Waldbaum Wakefield, Nebr."

LIBELED: 1-6-65, E. Dist. N.Y.

CHARGE: 402(a)(1)—when shipped, the article contained an added poisonous and deleterious substance, *Salmonella* micro-organisms, which may have rendered it injurious to health.

DISPOSITION: 1-28-65. Consent—claimed by Milton G. Waldbaum Co., Wakefield, Nebr., and reconditioned.

FEEDS AND GRAINS

30254. Dried sugar beet pulp with molasses, and dried sugar beet pulp. (Inj. No. 512.)

COMPLAINT FOR INJUNCTION FILED: On or about 6-30-65, Dist. Minn., against American Crystal Sugar Co., a corporation, East Grand Forks, Minn., and J. C. Tanner, general manager.

CHARGE: The complaint alleged that the defendants were engaged in operating at East Grand Forks, Minn., a sugar beet processing plant for the production, in part, of dried sugar beet pulp with molasses, and dried sugar beet pulp, foods within the meaning of the Act, and had been and were then shipping in violation of the law such foods which were adulterated within the meaning of 402(a)(2)(C).

The complaint alleged further that such foods were adulterated by the presence therein of a food additive, dieldrin, which was unsafe within the meaning of 409, since it and its use and its intended use were not in conformity with a regulation or exemption.

The complaint alleged also that the defendants had on hand, at the plant, stocks of such foods, namely, approximately 40,000 50-pound bags of dried sugar beet pulp with molasses and approximately 30,000 50-pound bags of dried sugar beet pulp, which stocks of such foods had been sampled and analyses performed thereupon. Copies of the reports of the analyses had been supplied to the defendants and the reports revealed that both the dried sugar beet pulp with molasses and the dried sugar beet pulp contained dieldrin. Such stocks of dried sugar beet pulp with molasses and dried sugar beet pulp constituted a menace to interstate commerce by reason of their dieldrin content.

DISPOSITION: On or about 6-30-65, the court denied a motion for a temporary restraining order which had been sought by the Government at the time the complaint was filed. On 8-3-65, a consent decree for preliminary injunction was filed.

The decree enjoined the defendants from shipping in interstate commerce, for sale or other purposes, any portion of the stock of dried sugar beet pulp with molasses and dried sugar beet pulp then on hand at the sugar beet processing plant of American Crystal Sugar Co., East Grand Forks, Minn., consisting of approximately 22,880 50-pound bags of dried sugar beet pulp with molasses and approximately 21,000 50-pound bags of dried sugar beet pulp.

The decree also provided that the preliminary injunction would not restrain or enjoin the defendants from exporting all or any portion of the stock of

dried sugar beet pulp and dried sugar beet pulp with molasses in compliance with the provisions of section 801(d) of the Act; and that prior to any shipment for export of any portion of the stock, defendants should first obtain written approval for such shipment from a duly authorized representative of the Food and Drug Administration of the Department of Health, Education, and Welfare, on the basis of evidence submitted by the defendants and reasonably satisfactory to the Food and Drug Administration that the defendants had complied with the provisions of 801(d).

30255. Dried sugar beet pulp with molasses. (F.D.C. No. 51423 A. S. No. 45-900 B.)

QUANTITY: 266 50-lb. bags at Richfield, Wis.

SHIPPED: 3-22-65, from Minneapolis, Minn., by I. S. Joseph Co., Inc.

LABEL IN PART: (Bag) "Dried Beet-Pulp With Beet Molasses * * * Manufactured By American Crystal Sugar Co., East Grand Forks, Minnesota."

LIBELED: 6-1-65, E. Dist. Wis.

CHARGE: 402(a)(2)(C)—when shipped, the article contained dieldrin, a food additive, which was unsafe within the meaning of 409, since it and its use and intended use were not in conformity with a regulation or exemption.

DISPOSITION: 7-19-65. Default—destruction.

30256. Dried sugar beet pulp with molasses. (F.D.C. No. 51445. S. No. 75-269 B.)

QUANTITY: 1,000 50-lb. bags at Indianapolis, Ind.

SHIPPED: 4-22-65, from Minneapolis, Minn., by I. S. Joseph Co., Inc.

LABEL IN PART: (Bag) "Dried Beet Pulp with beet molasses * * * Manufactured by American Crystal Sugar Co. East Grand Forks, Minnesota."

LIBELED: 6-30-65, S. Dist. Ind.

CHARGE: 402(a)(2)(C)—when shipped, the article contained dieldrin, a food additive, which was unsafe within the meaning of 409, since it and its use and intended use were not in conformity with a regulation or exemption.

DISPOSITION: 9-1-65. Default—destruction.

30257. Dried sugar beet pulp. (F.D.C. No. 51472. S. No. 29-033 B.)

QUANTITY: 610 50-lb. bags at Beaver Dam, Wis.

SHIPPED: 6-17-65, from Minneapolis, Minn., by I. S. Joseph Co., Inc.

LABEL IN PART: (Bag) "Plain Dried Beet Pulp * * * Manufactured by American Crystal Sugar Co. East Grand Forks, Minnesota."

LIBELED: 8-6-65, E. Dist. Wis.

CHARGE: 402(a)(2)(C)—when shipped, the article contained dieldrin, a food additive, which was unsafe within the meaning of 409, since it and its use and intended use were not in conformity with a regulation or exemption.

DISPOSITION: 9-7-65. Consent—destruction.

FRUITS AND VEGETABLES

CANNED FRUIT

30258. Strained pears. (F.D.C. No. 50861. S. No. 53-891 A.)

QUANTITY: 36 cases, each containing 24 4¾-oz. jars, at Grand Rapids, Mich.

SHIPPED: 8-25-64 and 10-1-64, from Williamson, N.Y., by Duffy-Mott Co., Inc.

LABEL IN PART: (Jar) "Strained Pears Clapp's * * * Packed by Duffy-Mott Company, Inc. General Offices New York, N. Y."

LIBELED: 12-7-64, W. Dist. Mich.

CHARGE: 402(b) (2)—when shipped, a mixture of strained apples and strained pears had been substituted in whole or in part for strained pears; and 403(a)—the name "Strained Pears" was false and misleading as applied to a product containing a mixture of strained apples and strained pears.

DISPOSITION: 5-5-64. Duffy-Mott Co., Inc., claimant, having denied that the article was adulterated and misbranded but having consented to the entry of a decree in view of the slight value of the seized article, judgment of condemnation was entered and the article was ordered to be delivered to a charitable organization and marked to show that it may contain a mixture of strained apples and pears.

30259. Preserved figs. (F.D.C. No. 50544. S. No. 74-649 A.)

QUANTITY: 97 cases, each containing 12 15-oz. jars, at Hattiesburg, Miss.

SHIPPED: 7-18-64, from League City, Tex., by the J. Garth Co.

LABEL IN PART: (Jar) "Garth Famous Old Fashioned Preserved Figs * * * Packed by The J. Garth Co. League City, Texas."

RESULTS OF INVESTIGATION: Examination showed that the article was short weight.

LIBELED: 8-19-64, S. Dist. Miss.

CHARGE: 403(e) (2)—when shipped, the label of the article failed to bear an accurate statement of the quantity of contents.

DISPOSITION: 11-13-64. Consent—claimed by the J. Garth Co., for relabeling.

JAM

30260. Raspberry jam. (F.D.C. No. 50999. S. No. 80-979 A.)

QUANTITY: 56 ctns., of 6 8-lb. 12-oz. cans each, at Brooklyn, N.Y.

SHIPPED: 10-15-64, from Warsaw, Poland, by Hortex Export Co.

LABEL IN PART: (Can) "Pure Raspberry Jam Seedless Product of Poland Exported by Hortex Warsaw."

LIBELED: 2-5-65, E. Dist. N.Y.

CHARGE: 402(a) (3)—contained insects and insect fragments when shipped.

DISPOSITION: 4-6-65. Consent—claimed by H. Adler Associates, Inc., New York, N.Y., and released for export to original foreign supplier.

MISCELLANEOUS FRUIT PRODUCTS

30261. Orange juice. (F.D.C. No. 51276. S. No. 31-005 B.)

QUANTITY: 374 cases, each containing 48 1/2-pt. ctns. of orange juice, at Gainesville, Fla.

SHIPPED: 3-29-65, from Austell, Ga., by Citra Sweet Juices, Inc.

LABEL IN PART: (Ctn.) "Bluebird Florida Orange Juice An excellent dietary source of Vitamin C."

RESULTS OF INVESTIGATION: Examination showed that the article consisted of an orange-colored liquid with odor, taste, and general appearance of orange juice.

LIBELED: On or about 4-29-65, N. Dist. Fla.

CHARGE: 403(a)—when shipped, the label statement in an outline of a shield “Packed under continuous Inspection Service of the U.S. Dept. of Agriculture” was false and misleading since the article was not packed under U.S. Department of Agriculture inspection; and 403(e)(1)—the article failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor, since the firm whose name was stated on the label was not the manufacturer, packer, or distributor of the article.

DISPOSITION: 5-28-65. Default—destruction.

30262. Cranberry juice cocktail. (F.D.C. No. 50966. S. No. 136-146 A.)

QUANTITY: 121 cases, each containing 121 1-qt. btls., at Hialeah, Fla.

SHIPPED: 10-30-64, from Littleton, Mass., by New England Apple Products Co., Inc.

LABEL IN PART: (Btl.) “Veryfine Cranberry Juice Cocktail * * * Contains * * * New England Apple Products Co., Inc., Littleton, Mass.”

LIBELED: 4-20-65, S. Dist. Fla.

CHARGE: 402(b)(4)—when shipped, artificial coloring had been added to the article so as to make it appear better or of greater value than it was; 403(i)(2)—the article was fabricated from two or more ingredients, and its label failed to bear the common or usual name of each such ingredient; and 403(k)—the article contained artificial coloring and failed to bear labeling stating that fact.

DISPOSITION: 5-3-65. Default—delivered to a Government institution for use therein.

30263. Canned guava pulp. (F.D.C. No. 51008. S. Nos. 38-221 B, 38-223 B.)

QUANTITY: 35 ctns., each containing 1 5-gal. can, at Brooklyn, N.Y.

SHIPPED: 6-12-64, from Santo Domingo, Dominican Republic.

RESULTS OF INVESTIGATION: Examination showed that over half of the cans were leaking.

LIBELED: 2-4-65, E. Dist. N.Y.

CHARGE: 402(a)(3)—contained decomposed guava pulp while held for sale.

DISPOSITION: 3-23-65. Default—destruction.

VEGETABLES AND VEGETABLE PRODUCTS*

30264. Frozen artichokes. (F.D.C. No. 51431. S. No. 19-837 B.)

QUANTITY: 192 cases of 8 4-lb. ctns. each, plus 24 40-lb. ctns., at San Martin, Calif.

SHIPPED: Between 4-17-65 and 4-28-65, from Planta Ampacadros En Tijuana, Mexico.

RESULTS OF INVESTIGATION: The article was shipped as fresh artichokes and subsequently blanched and frozen by Rianda Farms, Gilroy, Calif.

LIBELED: 6-16-65, N. Dist. Calif.

CHARGE: 402(a)(3)—the article was discolored while held for sale.

DISPOSITION: 8-12-65. Default—destruction.

*See also No. 30237.

30265. Canned mushrooms. (F.D.C. No. 51140. S. Nos. 34-984/5 B.)

QUANTITY: 910 cases, each containing 24 4-oz. cans, at Detroit, Mich.

SHIPPED: Between 12-4-64 and 2-15-65, from Kelton, Pa., by Oxford Royal Mushroom Products, Inc.

LABEL IN PART: (Can) "Hudson Farms Stems and Pieces Mushrooms * * * Lescarboursa Mushroom Co., Inc., Kelton, Pa."

LIBELED: 3-9-65, E. Dist. Mich.

CHARGE: 402(a)(3)—contained decomposed mushrooms when shipped.

DISPOSITION: 8-6-65. Default—destruction.

30266. Frozen french fried potatoes. (F.D.C. No. 51437. S. No. 28-379 B.)

QUANTITY: 484 cases, each containing 6 5-lb. bags, at Madison, Wis.

SHIPPED: 5-24-65, from Minneapolis, Minn., by Northern Star Sales Co.

LABEL IN PART: (Case) "Northern Star Premium Frozen French Fried Potatoes * * * $\frac{3}{8}$ Straight cut Packed for Northern Star Sales Co., Minneapolis, Minnesota."

LIBELED: 6-21-65, W. Dist. Wis.

CHARGE: 402(a)(3)—contained excessive coliforms, excessive *E. coli*, and excessive bacteria; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 8-9-65. Default—destruction.

30267. Frozen hash brown potatoes. (F.D.C. No. 51119. S. Nos. 27-744 B, 29-272 B.)

QUANTITY: 463 cases, each containing 15 lbs., at Minneapolis, Minn.

SHIPPED: 1-19-65 and 2-6-65, from Twin Falls, Idaho, by Idaho Frozen Foods, Inc.

LABEL IN PART: (Case) "Rus-Ettes Shredded Hash Brown Potatoes * * * Packed in Idaho by Idaho Frozen Foods, Inc., Kimberly, Idaho."

LIBELED: 3-17-65, Dist. Minn.

CHARGE: 402(a)(3)—contained excessive coliforms, a high bacterial count and *E. coli*; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 4-28-65. Default—destruction.

30268. Dried white corn. (F.D.C. No. 51505. S. No. 15-266 B.)

QUANTITY: 110 100-lb. bags at Tucson, Ariz.

SHIPPED: 5-21-65, from Hondo, Tex., by Chapman Grain, Inc.

LABEL IN PART: (Tag on bag) "White Corn * * * Chapman Grain, Inc., Hondo, Texas."

LIBELED: 6-29-65, Dist. Ariz.

CHARGE: 402(a)(3)—contained insects when shipped.

DISPOSITION: 7-20-65. Default—destruction.

30269. Dried lima beans. (F.D.C. No. 51457. S. Nos. 4-814 B, 4-816 B.)

QUANTITY: 355 100-lb. bags of green lima beans and 262 100-lb. bags of California lima beans, at Dandridge, Tenn., in possession of Bush Bros. & Co.

SHIPPED: 12-18-64 and 2-18-65, from Crows Landing, Calif., and Santa Maria, Calif.

LIBELED: 7-19-65, E. Dist. Tenn.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 8-9-65. Consent—claimed by Bush Bros. & Co., and reconditioned.

30270. Dried Great Northern beans and navy beans. (F.D.C. No. 50649. S. Nos. 36-543 A, 36-545 A.)

QUANTITY: 498 100-lb. bags of Great Northern beans and 478 100-lb. bags of navy beans at Denton, Tex., in possession of Whitson Food Products.

SHIPPED: 4-2-64 and 6-22-64, from Gering, Nebr., and Merrill, and Saginaw, Mich.

LIBELED: 10-5-64, E. Dist. Tex.

CHARGE: 402(a)(3)—the Great Northern beans contained insect larvae, insect parts, and insect excreta, and the navy beans contained rodent urine; and 402(a)(4)—both articles held under insanitary conditions.

DISPOSITION: 12-7-64. Consent—claimed by Witson Food Products and segregated. The Great Northern beans were denatured except for 4,000 lbs. which were destroyed; 2,000 lbs. of the navy beans were destroyed, and the remainder of such beans were released as fit for human consumption.

30271. Dried pinto beans. (F.D.C. No. 50064. S. No. 62-085 A.)

QUANTITY: 405 100-lb. bags at Kimberly, Idaho.

SHIPPED: 4-6-64, from Kimberly, Idaho, to Northridge, Calif., by Bean Growers Warehouse Association, Inc., and subsequently returned to Kimberly, Idaho.

LABEL IN PART: (Bag) "Outwest Brand Idaho Pinto Beans Packed by Bean Growers Whse. Assn., Inc., Twin Falls, Idaho."

RESULTS OF INVESTIGATION: Inspection showed that the article had been held in a rodent-infested plant at the Bean Growers Warehouse Association, Inc., Kimberly, Idaho.

LIBELED: 4-27-64, Dist. Idaho.

CHARGE: 402(a)(4)—the article had been held under insanitary conditions when shipped from Kimberly, Idaho.

DISPOSITION: 11-30-64. Consent—claimed by Bean Growers Warehouse Association, Inc., and reconditioned.

30272. Dried pinto beans. (F.D.C. No. 51168. S. No. 17-553 B.)

QUANTITY: 171 100-lb. bags, at Northridge, Calif., in possession of Alfred M. Lewis, Inc.

SHIPPED: 2-1-65, from Rupert, Idaho.

LIBELED: 4-13-65, S. Dist. Calif.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 7-1-65. Consent—claimed by Mini-Cassia Marketing Co-Op., Inc., Rupert, Idaho, and reconditioned.

30273. Dried pinto beans and dried Great Northern beans. (F.D.C. No. 49390. S. Nos. 55-026/7 X.)

QUANTITY: 29 100-lb. bags of pinto beans and 22 100-lb. bags of Great Northern beans, at Pikeville, Ky., in possession of Carter & Sadler Wholesale Co., Inc.

SHIPPED: 1-5-63 and 9-6-63, from Greeley, Colo., and Huntington, W. Va.

LIBELED: 10-10-63, E. Dist. Ky.

CHARGE: 402(a)(4)—held under insanitary conditions.

DISPOSITION: A default decree of condemnation was entered on 4-27-64. On 4-30-64, the decree was vacated pending reconditioning. On 4-28-65, a second decree was entered and the articles were destroyed.

30274. Canned cut green beans. (F.D.C. No. 51096. S. No. 26-201 B.)

QUANTITY: 109 cases, each containing 24 15½-oz. cans, at Siloam Springs, Ark.

SHIPPED: 2-19-65, from St. Louis, Mo., by Allen Canning Co., Siloam Springs, Ark. This was a return shipment.

LABEL IN PART: (Can) "Deck's Cut Green Beans * * * Distributed by Deck Sales Agency Springfield, Mo."

LIBELED: 3-1-65, W. Dist. Ark.

CHARGE: 402(a)(3)—when shipped, the article contained decomposed beans; and 403(h)(1)—the article fell below the standard of quality for canned cut green beans, since the article contained more than 8 percent by count of blemished units, and its label failed to bear a statement that it fell below such standard.

DISPOSITION: 5-5-65. Default—destruction.

30275. Dried small red beans. (F.D.C. No. 50268. S. Nos. 96-804 A, 96-811 A.)

QUANTITY: 248 100-lb. bags at Manteca, Calif.

SHIPPED: 5-29-64, from Kennewick, Wash.

LIBELED: 8-4-64, N. Dist. Calif.

CHARGE: 402(a)(3)—contained rodent urine while held for sale.

DISPOSITION: On 1-4-65, a default decree of condemnation was entered ordering destruction of the article. The decree was subsequently vacated and the article was claimed by Klein Bros., Inc., Stockton, Calif. A consent decree of condemnation was entered on 3-11-65, providing for reconditioning; 475 lbs. were destroyed.

TOMATOES AND TOMATO PRODUCTS

30276. Canned tomatoes (2 seizure actions). F.D.C. Nos. 51249; 51278. S. Nos. 55-591 B; 55-598/99 B.)

QUANTITY: 2,015 cases, each containing 24 1-lb. cans, at York, Pa.

SHIPPED: Between 3-8-65 and 3-23-65, from Hagerstown, Md., by Miller's Celery & Asparagus Farms.

LABEL IN PART: (Cans) "Penn Dale Tomatoes * * * Distributed by Associated Wholesalers, Inc., York, Pa."; and "Shurfine Fancy Whole Tomatoes * * * Distributed by Eastern Retailer-Owned Grocers Cooperative, Inc., New York, N.Y."

LIBELED: 4-2-65 and 4-22-65, M. Dist. Pa.

CHARGE: 402(a)(3)—contained fly eggs and maggots; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 7-2-65. Consent—claimed by Miller's Celery & Asparagus Farms. Segregated; 1,776 cans destroyed.

30277. Canned tomatoes. (F.D.C. No. 51192. S. No. 2-822 B.)

QUANTITY: 223 cases, of 24 1-lb. cans each, at Chattanooga, Tenn.

SHIPPED: 3-30-65, from Homestead, Fla., by Homestead Canning Co., Inc.

LABEL IN PART: (Can) "Homestead Brand Select Quality Tomatoes * * *
Packed by Homestead Canning Co. Incorporated Homestead, Fla."

LIBELED: 5-18-65, E. Dist. Tenn.

CHARGE: 402(a)(3)—contained *Drosophila* fly eggs and maggots; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 6-22-65. Default—destruction.

30278. Canned tomatoes. (F.D.C. No. 51179. S. No. 31-815 B.)

QUANTITY: 183 cases, each containing 24 1-lb. cans, at Macon, Ga.

SHIPPED: 2-23-65, from Homestead, Fla., by Homestead Canning Co., Inc.

LABEL IN PART: (Can) "Good Hope Tomatoes * * * Distributed by Meridian Distributors New York 8 Chicago 6."

LIBELED: 5-4-65, M. Dist. Ga.

CHARGE: 402(a)(3)—contained *Drosophila* fly eggs and maggots; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 6-14-65. Default—destruction.

30279. Canned tomatoes. (F.D.C. No. 50928. S. No. 22-500 A.)

QUANTITY: 52 cases, of 24 cans each, at Colonie, N.Y.

SHIPPED: 10-19-64, from Preston, Md., by Albert W. Sisk & Son.

LABEL IN PART: (Can) "Pine Cone Brand Net Contents 1 Lb. 11 Oz. Peeled Tomatoes * * * Albert W. Sisk and Son Distributors."

LIBELED: 1-21-65, N. Dist. N.Y.

CHARGE: 403(h)(1)—when shipped, the quality of the article fell below the standard of quality for canned tomatoes since the drained weight of the article was less than 50 percent of the weight of the water required to fill the container of the article and the label of the article failed to bear a statement that it fell below such standard.

DISPOSITION: 2-15-65. Default—destruction.

30280. Canned tomatoes. (F.D.C. No. 51272. S. No. 32-365 B.)

QUANTITY: 1,196 cases, each containing 24 1-lb. cans, at Atlanta, Ga.

SHIPPED: 3-13-65, from Princeton, Fla., by Dade Farms, Inc.

LABEL IN PART: (Can) "Red-Glo * * * Peeled Tomatoes * * * Albert W. Sisk and Son Distributors * * * Main Office Preston, Md. Sales Office Aberdeen, Md."

LIBELED: 4-19-65, N. Dist. Ga.

CHARGE: 402(a)(3)—contained fly eggs and maggots; and 402(a)(4)—prepared and packed under insanitary conditions.

403(h)(1)—when shipped, the quality of the article fell below the standard of quality for canned tomatoes since the article contained tomato peel per pound of canned tomatoes in the container which covered an area of more than 1

square inch and its label failed to bear a statement that it fell below such standard.

DISPOSITION: 6-1-65. Default—destruction.

30281. Canned tomatoes. (F.D.C. No. 51002. S. No. 135-435 A.)

QUANTITY: 550 cases, each containing 24 1-lb. cans, at Greenville, S.C.

SHIPPED: 10-5-64, from Federalsburg, Md., by Albert W. Sisk & Son.

LABEL IN PART: (Can) "Wright's Tomatoes * * * Packed in U.S.A. By John N. Wright, Jr., Inc. Federalsburg, Md."

LIBELED: 2-2-65, W. Dist. S.C.

CHARGE: 403(h)(1)—when shipped, the article fell below the standard of quality for canned tomatoes, since the article contained tomato peel per pound of canned tomatoes in the container, which covered an area of more than 1 square inch and its label failed to bear a statement that it fell below such standard.

DISPOSITION: 5-4-65. Consent—claimed by Albert W. Sisk & Son and John N. Wright, Jr., Inc.; 63 cases were ordered to be delivered to a charitable institution; remainder released to the claimant.

30282. Canned tomatoes. (F.D.C. No. 51271. S. No. 58-207 B.)

QUANTITY: 278 cases, each containing 24 1-lb. cans, at East Point, Ga.

SHIPPED: 3-10-65, from Preston, Md., by Albert W. Sisk & Son.

LABEL IN PART: (Can) "Red Glo * * * Peeled Tomatoes * * * Albert W. Sisk and Son Distributors * * * Main Office Preston, Md. Sales Office Aberdeen, Md."

RESULTS OF INVESTIGATION: Inspection of the packer, Dade Farms, Inc., Princeton, Fla., showed that the article was prepared and packed under insanitary conditions.

LIBELED: 4-19-65, N. Dist. Ga.

CHARGE: 402(a)(3)—contained fly eggs and maggots; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 5-26-65. Default—destruction.

30283. Canned tomatoes. (F.D.C. No. 51175. S. No. 34-988 B.)

QUANTITY: 106 cases, each containing 24 1-lb. cans, at South Bend, Ind.

SHIPPED: 1-25-65, from San Francisco, Calif., by Tri-Valley Growers.

LABEL IN PART: (Can) "Plee-Zing California Tomatoes * * * Packed by Tri-Valley Growers San Francisco California."

LIBELED: 4-28-65, N. Dist. Ind.

CHARGE: 403(h)(1)—when shipped, the quality of the article fell below the standard of quality for canned tomatoes since it contained tomato peel per pound of tomatoes in the cans which covered an area of more than 1 square inch and its label failed to bear a statement that it fell below such standard.

DISPOSITION: 6-23-65. Default—delivered to a charitable institution.

30284. Tomato sauce. (F.D.C. No. 50868. S. Nos. 111-866/72 A.)

QUANTITY: 6,708 cases, each containing 72 8-oz. unlabeled cans, at Anthony, Tex., in possession of Mountain Pass Canning Co.

SHIPPED: The article was prepared and packed by the dealer from raw tomatoes shipped between 9-28-64 and 10-4-64, by various growers from the State of New Mexico.

LABEL IN PART: (Case) "Buffett * * * Mountain Pass Tomato Sauce Mountain Pass Canning Co., Anthony, Texas."

LIBELED: 12-4-64, W. Dist. Tex.

CHARGE: 402(a) (3)—contained decomposed tomatoes while held for sale.

DISPOSITION: 6-24-65. Consent—destruction.

MEAT PRODUCTS AND POULTRY

30285. Chili Con Carne without beans. (F.D.C. No. 50726. S. No. 93-659 A.)

QUANTITY: 66 cases, each containing 12 1-lb. 8-oz. cans, at Russellville, Ark.

SHIPPED: 5-8-62, from Indianapolis, Ind.

RESULTS OF INVESTIGATION: Examination showed that the article was undergoing chemical decomposition.

LIBELED: 10-23-64, E. Dist. Ark.

CHARGE: 402(a) (3)—contained a decomposed substance while held for sale.

DISPOSITION: 11-20-64. Default—delivered to a public institution to be denatured for use as animal feed.

30286. Frozen chickens. (F.D.C. No. 51434. S. Nos. 35-724/5 B.)

QUANTITY: 321 crates and 5 unlabeled crates, each containing approximately 65 lbs. of whole, cut-up, or parts of chickens, at Cleveland, Ohio.

SHIPPED: 5-18-65, from Minneapolis, Minn. This was a return shipment.

LABEL IN PART: (Crate) "Sunnyboy * * * Light Fowl * * * Braman Poultry, Inc. * * * Cleveland, Ohio."

LIBELED: 6-17-65, N. Dist. Ohio.

CHARGE: 402(a) (3)—contained decomposed chicken when shipped.

DISPOSITION: 7-12-65. Default—destruction.

30287. Canned chicken broth. (F.D.C. No. 50254. S. Nos. 98-096/8 A.)

QUANTITY: 440 cases, each containing 24 cans, at San Francisco, Calif.

SHIPPED: 4-20-62, from Augusta, Ill., by Dennis Chicken Products Co.

LABEL IN PART: (Can) "Monarch Chicken Broth * * * Net Contents 13¾ fl. oz., 14½ oz. avoir. Packed for Consolidated Foods Corporation Distributors Chicago, Illinois."

RESULTS OF INVESTIGATION: Examination showed that the article was between 1.1 percent and 12.6 percent short weight. Examination also showed that the article was between 2.2 percent and 12.5 percent short volume.

LIBELED: 7-17-64, N. Dist. Calif.

CHARGE: 403(e) (2)—when shipped, the article failed to bear a label containing an accurate statement of quantity of contents since the label statement "Net Contents 13¾ Fl. Oz.—14½ Oz. Avoir." was inaccurate.

DISPOSITION: 9-10-64. Consent—claimed by Dennis Chicken Products Co., for relabeling.

NUTS AND NUT PRODUCTS

30288. Shelled pecans. (F.D.C. No. 51160. S. No. 29-502 B.)

QUANTITY: 20 30-lb. cases, at Minneapolis, Minn.

SHIPPED: 3-9-65, from Dallas, Tex., by Texas Nut Co.

LABEL IN PART: (Case) "Standard Med. Pieces."

LIBELED: 4-12-65, Dist. Minn.

CHARGE: 402(a)(3)—contained *E. coli*; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 6-9-65. Default—destruction.

30289. Shelled pecans. (F.D.C. No. 50984. S. No. 57-302 A.)

QUANTITY: 123 cases, each containing 24 6-oz. pkgs., at Liberal, Kans.

SHIPPED: 11-25-64, from Fort Worth, Tex., by Ellis Pecan Co.

LABEL IN PART: (Pkg.) "Ellis Pecans * * * Packed by Ellis Pecan Co., Fort Worth, Texas."

LIBELED: 1-25-65, Dist. Kans.

CHARGE: 402(a)(3)—contained excessive coliforms, a high total bacterial count and *E. coli*; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 4-6-65. Default—destruction.

30290. Unshelled pecans. (F.D.C. No. 51163. S. No. 25-286 B.)

QUANTITY: 22 50-lb. bags and 8 100-lb. bags, at Poplar Bluff, Mo., in possession of Bluff City Beer & Produce Co.

SHIPPED: 11-18-64, from Mobile, Ala.

LIBELED: 4-14-65, E. Dist. Mo.

CHARGE: 402(a)(3)—contained rodent urine, rodent gnawings, rodent pellets, and rodent hairs; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 5-14-65. Default—delivered to a public institution for use as animal feed.

30291. Unshelled pecans. (F.D.C. No. 51465. S. No. 26-505 B.)

QUANTITY: Approximately 4,072 lbs., in unlabeled bags, at Memphis, Tenn.

SHIPPED: 2-13-64 and 2-17-64, from Elaine, Ark.

LIBELED: 8-3-65, W. Dist. Tenn.

CHARGE: 402(a)(3)—contained moldy, decomposed nuts, and was otherwise unfit for food by reason of presence of shriveled nuts and empty shells while held for sale.

DISPOSITION: 9-16-65. Default—destruction.

30292. Unshelled pecans. (F.D.C. No. 50908. S. No. 3-516 A.)

QUANTITY: 39,818 lbs., in 309 bags of approximately 130 lbs. each, at Macon, Ga.

SHIPPED: 12-2-64, from Donaldsville, La., by Foti Enterprises, Inc.

LIBELED: 12-30-64, M. Dist. Ga.

CHARGE: 402(a)(3)—contained moldy, rancid, decomposed, shriveled nuts, and empty shells when shipped.

DISPOSITION: 3-24-65. Consent—claimed by Miller Nut Co., Eastman, Ga.; reconditioned and segregated—38 bags destroyed.

30293. Shelled walnuts. (F.D.C. No. 50994. S. No. 28-366 A.)

QUANTITY: 100 30-lb. ctns. at Chicago, Ill.

SHIPPED: 11-23-64, from Canoga Park, Calif., by Valley Shelling Co.

LABEL IN PART: (Ctn.) "Leo Brand California Shelled Walnuts Lite Pills
Valley Shelling Co. Canoga Park, Calif."

LIBELED: 2-2-65, N. Dist. Ill.

CHARGE: 402(a)(3)—contained *E. coli*; and 402(a)(4)—prepared and packed
under insanitary conditions.

DISPOSITION: 3-15-65. Default—destruction.

30294. Sunflower seeds. (F.D.C. No. 51298. S. No. 47-161 B.)

QUANTITY: 95 100-lb. bags at Chicago, Ill.

SHIPPED: 1-28-65 and 2-12-65, from Harrow, Canada.

LIBELED: 5-6-65, N. Dist. Ill.

CHARGE: 402(a)(3)—contained insects and insect fragments while held for
sale.

DISPOSITION: 7-6-65. Default—destruction.

**VITAMIN, MINERAL, AND OTHER PRODUCTS OF SPECIAL
DIETARY SIGNIFICANCE****30295. Brewer's yeast.** (F.D.C. No. 50983. S. No. 82-045 A.)

QUANTITY: 4 100-lb. drums at Queens Village, N.Y.

SHIPPED: 12-1-64, from Philadelphia, Pa., by Philadelphia Dry Yeast Co.

LABEL IN PART: (Drum) "Fleischmann Debittered Brewers' Dried Yeast Type
P * * * Distributed by Standard Brands Incorporated * * * New York,
N.Y."

LIBELED: 1-28-65, E. Dist. N.Y.

CHARGE: 402(a)(1)—when shipped, the article contained an added poisonous
and deleterious substance, Salmonella micro-organisms, which may have ren-
dered it injurious to health.

DISPOSITION: 3-1-65. Default—destruction.

30296. Brewer's yeast. (F.D.C. No. 50932. S. No. 22-411 A.)

QUANTITY: 3 100-lb. drums at Newark, N.Y.

SHIPPED: 12-9-64, from Philadelphia, Pa., by Standard Brands, Inc.

LABEL IN PART: (Drum) "Debittered Brewers' Dried Yeast Type P * * *
Distributed by Standard Brands Incorporated * * * New York, N.Y."

LIBELED: 2-4-65, W. Dist. N.Y.

CHARGE: 402(a)(1)—when shipped, the article contained an added poisonous
and deleterious substance, Salmonella micro-organisms, which may have ren-
dered it injurious to health.

DISPOSITION: 3-15-65. Default—destruction.

30297. Diet-All. (F.D.C. No. 50900. S. No. 72-282 A.)

QUANTITY: 34 25-lb. boxes at Hammond, La.

SHIPPED: 6-17-64 and 9-22-64, from Pompano Beach, Fla., by Mainland Corp.

LABEL IN PART: (Box) "Diet-All * * * Flour * * * Directions * * * Food Requirements For One Day * * * Mainland Corporation, New York, N.Y. Pompano Beach, Fla."

LIBELED: 12-23-64, E. Dist. La.

CHARGE: 402(a)(1)—contained an added poisonous and deleterious substance, *Salmonella* micro-organisms, when shipped.

DISPOSITION: 2-8-65. Default—destruction.

30298. 40 Plus and Vita-Bio dietary supplements. (F.D.C. No. 50697. S. Nos. 19-439/40 A.)

QUANTITY: 1,582 60-tablet btls. of 40 Plus vitamin tablets, 1,510 60-tablet btls. of 40 Plus enzyme tablets, 1,510 60-tablet btls. of 40 Plus mineral tablets, 1,438 60-tablet btls. of Vita-Bio vitamin tablets, and 1,510 60-tablet btls. of Vita-Bio mineral tablets, at Pittsburgh, Pa.

SHIPPED: Between 12-14-61 and 2-9-62, from Newark, N.J., by Lit Drug Co. (Lit Sales Co., Inc.).

LABEL IN PART: (Btls.) "Nu-Life Natural Organic 40 Plus Vitamin Tablets 30 Day Supply * * * High Potency Vitamins * * * Each two tablets furnish * * * Liver Stomach Concentrate with Intrinsic Factor Concentrate 100 mg."; (btl.) "Nu-Life Natural Organic 40 Plus Enzyme [or "Mineral"] Tablets * * * Distributed by Nu-Life Company * * * Pittsburgh 20, Pa."; (btl.) "Nu-Life Natural Organic Vita-Bio Vitamins 30 Day Supply * * * Each two vitamin tablets contain * * * Liver Complex Concentrate with Intrinsic Factor 30 mg."; and (btl.) "Nu-Life * * * Vita-Bio Minerals 30 Day Supply * * * Distributed by Nu-Life Company."

ACCOMPANYING LABELING: Empty combination boxes for the three 40 Plus articles labeled in part "Nu-Life Natural—Organic 40 Plus Vitamin+Mineral+Enzyme Food Supplement For Folks Over 40"; and empty combination boxes for Vita-Bio articles labeled in part "Natural—Organic Vita-Bio A 30 Day Supply 60 Vitamin Tablets Nu-Life 120 Mineral Tablets A Vitamin and Mineral Dietary Supplement For Your Most Active Years."

LIBELED: 11-9-64, W. Dist. Pa.

CHARGE: 402(a)(2)(C)—while held for sale, the 40 Plus vitamin tablets and the Vita-Bio vitamin tablets contained intrinsic factor, a food additive, which was unsafe within the meaning of 409, since it and its use and intended use were not in conformity with a regulation or exemption; 403(a)—when shipped and while held for sale, the labeling of the 40 Plus vitamin tablets, 40 Plus mineral tablets, and 40 Plus enzyme tablets was false and misleading in that the listing and references to the inclusion in the articles of the ingredients para-aminobenzoic acid, choline, inositol, biotin, vitamin K, lemon bioflavonoid complex, rutin, glutamic acid, nucleic acid, unsaturated fatty acids, yeast protein enzymatic hydrolysate, soya bean lecithin, liver-stomach concentrate with intrinsic factor concentrate, papain, pepsin, malt, duodenal substance, hesperidin complex, l-lysine, wheat germ, rose hips, black strap molasses, bone meal, young cereal grass, alfalfa, Pacific and Nova Scotia kelp, watercress, parsley, carrot tops, proteins, red bone marrow, beef peptone, mylase

enzyme, prolase enzyme, cellase enzyme, magnesium, copper, manganese, and potassium, represented and suggested, contrary to fact, that the nutritional value of the article was enhanced by the presence therein of these ingredients; in that the name of the article "40 Plus," the name of the firm "Nu-Life," and other statements in the labeling represented, suggested and implied, contrary to fact, that persons over 40 years of age had special vitamin-mineral enzyme requirements; that they required dietary supplementation; that the articles would impart new life to a person over 40; and that the articles would add vigor and energy to a person over 40; and in that the statement "Need in human nutrition not established" as applied to pantothenic acid, copper, and manganese was false and misleading, since the need in human nutrition for these ingredients had been established; 403(a)—when shipped and while held for sale, the labeling of the Vita-Bio vitamin tablets and the Vita-Bio mineral tablets, was false and misleading in that the listing and references as to the inclusion in the articles of the ingredients para-aminobenzoic acid, choline, inositol, biotin, whole liver (desiccated and defatted), liver complex concentrate and intrinsic factor, citrus bioflavonoid complex, soya bean lecithin, sunflower seed oil (containing unsaturated fatty acids), yeast protein enzymatic hydrolysate, nucleic acid, glutamic acid, rice brand concentrate, red bone marrow, papain, peppermint leaves, rutin, wheat germ powder, vitamin K, malt, magnesium, copper, and manganese, represented and suggested, contrary to fact, that the nutritional value of the article was enhanced by the presence therein of these ingredients; in that the statement "Need in human nutrition not established," as applied to pantothenic acid and manganese, was false and misleading, since the need in human nutrition had been established for these ingredients; and in that the name of the firm "Nu-Life," the name of the article "Vita-Bio," and other statements in the labeling represented, suggested and implied, contrary to fact, that the article would impart life and vitality to a person and that active persons required additional vitamin-mineral supplementation.

DISPOSITION: 12-16-64. Default—destruction.

30299. Vita-Mates multi-vitamin tablets. (F.D.C. No. 50655. S. No. 34-158 A.)

QUANTITY: 90 btls. at Knoxville, Tenn.

SHIPPED: Between 9-11-62 and 4-23-63, from East Point, Ga., by Rexall Drug Co.

LABEL IN PART: (Btl.) "Vita-Mates Therapeutic-M Multi-Vitamins With Minerals High Potency Stress Formula 100 Tablets * * * Directions One tablet daily for adults * * * Special Sales Products—Los Angeles."

LIBELED: On or about 10-8-64, E. Dist. Tenn.

CHARGE: 402(b)(1)—while held for sale, the valuable constituent, vitamin C, had been in part omitted or abstracted from the article; 402(a)(2)(C)—the article contained a food additive, molybdenum, which was unsafe within the meaning of 409, since it and its use and intended use were not in conformity with a regulation or exemption; and 403(a)—when shipped, the label statement "Need in human nutrition not established" for calcium pantothenate, magnesium, manganese, potassium, and zinc was false and misleading, since the need in human nutrition for these ingredients has been established.

DISPOSITION: 11-13-64. Default—destruction.

30300. Dia-Mel dietetic banana tea cookies. (F.D.C. No. 47674. S. No. 73-941 T.)

QUANTITY: 448 15-lb. boxes and 209 cases, each containing 12 2½-oz. pkgs., at Brooklyn, N.Y., in possession of Dietetic Food Co., Inc.

SHIPPED: 5-23-62, from Clifton, N.J.

LABEL IN PART: (Pkg.) "Be Diet-wise with Dia-Mel dietetic banana tea cookies No Salt Added Lower in calories * * * Ingredients: * * * Packed by Dietetic Food Co., Inc., Brooklyn, N.Y."

RESULTS OF INVESTIGATION: The article had been shipped as above in 15-lb. boxes and, in part, had been repacked into 2½-oz. packages labeled as above.

LIBELED: 6-22-62, E. Dist. N.Y.

CHARGE: 403(a)—while held for sale, the repack label bore the false and misleading statements and vignette of a slim woman which represented and suggested that the article was significantly lower in calories than similar cookies, and that it was of significant value for use in calorie restricted diets for reducing because it was saccharin sweetened.

DISPOSITION: On 7-23-62, Dietetic Food Co., Inc., filed a claim to the article and filed an answer to the libel denying that the article was misbranded. Subsequently, the Government served written interrogatories upon the claimant. Thereafter, the claimant answered the Government's interrogatories and on 4-9-63, served written interrogatories upon the Government.

On 4-19-65, the claimant filed a withdrawal of its claim and answer; and on 6-10-65, a default decree of condemnation and destruction was entered by the court.

INDEX TO NOTICES OF JUDGMENT F.N.J. NOS. 30201 TO 30300

PRODUCTS			
	N.J. No.		N.J. No.
Artichokes, frozen-----	30264	Cereals and cereal products----	30204-
Beans, Great Northern, dried---	30270,		30240
	30273	Chicken(s), broth, canned-----	30287
green, cut, canned-----	30274	frozen -----	30286
lima, dried-----	30269	Chili Con Carne, without beans--	30285
navy, dried-----	30270	Coffee beans, green-----	30201
pinto, dried-----	30237,	Cornmeal mix-----	30239, 30240
	30271-30273	Corn, white, dried-----	30268
small, red, dried-----	30275	Cranberry juice cocktail-----	30262
Beverages and beverage mate-		Dia-Mel dietetic banana tea	
rials -----	30201-30203	cookies-----	¹ 30300
Brewer's yeast-----	30295, 30296	Diet-All -----	30297

¹ (30258,30300) Seizure contested.

	N.J. No.		N.J. No.
Donut flour-----	30215	Oats -----	² 30229-30232
mix -----	30238	rolled-----	30237
Egg(s), dried-----	30253	Orange juice-----	30261
frozen-----	30241-30250	Pears, strained-----	¹ 30258
whites, frozen-----	30251	Pecans, shelled-----	30288, 30289
whites and frozen egg blend		unshelled-----	30290-30292
product -----	30252	Pesticide chemical violations----	30217,
Feeds and grains-----	30254-30257		30218, 30222, 30223, 30230-
Figs, preserved -----	30259		30232
Flour -----	30204-30215, 30239	Pinto beans, dried--	30237, 30271-30273
Donut-----	30215	Popcorn, unpopped-----	30233, 30234
Food additive violations-----	30254-	Potatoes -----	30237
	30257, 30298, 30299	french fried, frozen-----	30266
40 Plus vitamin and mineral		hash brown, frozen-----	30267
tablets -----	30298	Poultry. <i>See</i> Meat products and	
Fruits and vegetables--- ¹	30258-30284	poultry.	
fruit, canned-----	30258, 30259	Raspberry jam-----	30260
jam -----	30260	Rice -----	30235, 30236
miscellaneous fruit products-	30261-	Sugar -----	30237
	30263	Sugar beet pulp, dried---	² 30254, 30257
tomatoes and tomato prod-		Sugar beet pulp, with molasses,	
ucts -----	30276-30284	dried -----	² 30254-30256
vegetables and vegetable prod-		Sunflower seeds-----	30294
ucts -----	30264-30275	Tea bags -----	30202
Grains. <i>See</i> Feeds and grains.		Tomato(es), canned-----	30276-30283
Great Northern beans, dried----	30270,	sauce-----	30284
	30273	Vegetables. <i>See</i> Fruits and vege-	
Guava pulp, canned-----	30263	tables.	
Jam, raspberry-----	30260	Vita-Bio vitamin and mineral	
Lima beans, dried-----	30269	tablets-----	30298
Macaroni -----	30237	Vita-Mates multi-vitamin tab-	
elbow-----	30237	lets -----	30299
Meat products and poultry-----	30285-	Vitamin, mineral, and other prod-	
	30287	ucts of special dietary signifi-	
Mix, cornmeal -----	30239, 30240	cance -----	30295-30300
Donut-----	30238	Walnuts, shelled-----	30293
Mushrooms, canned -----	30265	Wheat -----	² 30216-30228
Navy beans, dried-----	30270	Wine -----	30203
Nuts and nut products-----	30288-30294		

SHIPPERS, MANUFACTURERS, AND DISTRIBUTORS

	N.J. No.		N.J. No.
Adrian Equity Elevator Co.:		Allendale Farms:	
oats -----	30231	frozen eggs-----	30243
Allen Canning Co.:		Alver Bros. Co.:	
canned cut green beans-----	30274	unpopped popcorn-----	30234

¹ (30258,30300) Seizure contested.
² (30216,30229,30254) Injunction issued.

	N.J. No.		N.J. No.
American Crystal Sugar Co.:		Dade Farms, Inc.:	
dried sugar beet pulp with mo-		canned tomatoes-----	30280
lasses and dried sugar beet		Davis Wholesale Co., Inc.:	
pulp ----- ²	30254	cornmeal mix and flour-----	30239
dried sugar beet pulp with mo-		cornmeal mix-----	30240
lasses -----	30255, 30256	Deck Sales Agency:	
dried sugar beet pulp-----	30257	canned cut green beans-----	30274
Associated Wholesalers, Inc.:		Dennis Chicken Products Co.:	
canned tomatoes-----	30276	canned chicken broth-----	30287
Bagley Grain Co.:		Dietetic Food Co., Inc.:	
wheat -----	30217	Dia-Mel dietetic banana tea	
Bean Growers Warehouse As-		cookies ----- ¹	30300
sociation, Inc.:		Drake Farmers Elevator:	
dried pinto beans-----	30271	wheat -----	30223
Bedford County Egg Industries,		Duffy-Mott Co., Inc.:	
Inc.:		strained pears ----- ¹	30258
frozen eggs-----	30248	Early & Daniels Co.:	
Benincasa, V. Jas., Co.:		wheat -----	30225
frozen eggs-----	30245	Eastern Retailer-Owned Grocers	
Berkshire Bakers, Inc.:		Cooperative, Inc.:	
Donut mix -----	30238	canned tomatoes-----	30276
Blomster, James:		Economy Cash & Carry, Inc.:	
wheat ----- ²	30216	flour -----	30210
Bluff City Beer & Produce Co.:		Elk Grocery Co.:	
unshelled pecans-----	30290	flour -----	30208
Braman Poultry, Inc.:		Ellis Pecan Co.:	
frozen chickens-----	30286	shelled pecans-----	30289
Burnap, I. M., & Co.:		Farmers Cooperative Elevator	
canned guava pulp-----	30263	Co.:	
Bush Bros. & Co.:		oats ----- ²	30229
dried lima beans-----	30269	Farmers Cooperative Grain &	
Carter & Sadler Wholesale Co.,		Livestock Association:	
Inc.:		wheat -----	30220
dried pinto beans and dried		Farmers Feed Co.:	
Great Northern beans-----	30273	wheat -----	30227
Central Conn. Cooperative Farm-		Farmers Union Grain Terminal	
ers Association, Inc.:		Association:	
frozen eggs-----	30243	wheat -----	30222
Chapman Grain, Inc.:		Flagstaff Food Corp.:	
dried white corn-----	30268	rice -----	30236
Citra Sweet Juices, Inc.:		Fleischman's:	
orange juice-----	30261	frozen eggs-----	30242
Consolidated Foods Corp.:		Forrest, E. G., Co., Inc.:	
canned chicken broth-----	30287	Donut flour-----	30215
Cooperative Elevator of Mc-		Foti Enterprises, Inc.:	
Clusky:		unshelled pecans-----	30292
wheat -----	30224	Garth, J., Co.:	
		preserved figs-----	30259

¹ (30258,30300) Seizure contested.² (30216,30229,30254) Injunction issued.

	N.J. No.		N.J. No.
Gibson Products, Inc.:		Miller's Celery & Asparagus	
unpopped popcorn-----	30233	Farms:	
Greeley Elevator Co.:		canned tomatoes-----	30276
wheat -----	30221	Monark Egg Corp.:	
Hausman, L., Inc.:		frozen egg whites and frozen	
flour -----	30206	egg blend product-----	30252
Henke & Pillot, Inc.:		Montana Wheat Growers, Inc.:	
flour -----	30213	wheat -----	30226
Hennings, Henry:		Mountain Pass Canning Co.:	
oats -----	² 30229	tomato sauce-----	30284
Holland, L. O.:		New England Apple Products Co.,	
wheat -----	² 30216	Inc.:	
Homestead Canning Co., Inc.:		cranberry juice cocktail-----	30262
canned tomatoes-----	30277, 30278	New York Creamery Corp., Inc.:	
Hortex Export Co.:		frozen eggs-----	30241
raspberry jam-----	30260	Northern Star Sales Co.:	
Hurst Products, Inc.:		frozen french fried potatoes---	30266
frozen egg whites-----	30251	Nu-Life Co.:	
Idaho Frozen Foods, Inc.:		40 Plus and Vita-Bio dietary	
frozen hash brown potatoes---	30267	supplements -----	30298
Iwanicki, R. T.:		Oak Tree Farm:	
Donut mix-----	30238	frozen eggs-----	30246
Johnson, E. C.:		Oliveri, A., & Sons:	
oats -----	² 30229	flour -----	30209
Joseph, I. S., Co., Inc.:		Oxford Royal Mushroom Prod-	
dried sugar beet pulp with mo-		ucts, Inc.:	
lasses -----	30255, 30256	canned mushrooms-----	30265
dried sugar beet pulp-----	30257	Philadelphia Dry Yeast Co.:	
Lamb Elevator Co.:		brewer's yeast-----	30295
wheat -----	30218	Planta Ampacadros En Tijuana:	
Lescarboursa Mushroom Co., Inc.:		frozen artichokes-----	30264
canned mushrooms-----	30265	Quinzani, A. A.:	
Lewis, Alfred M., Co., Inc.:		flour -----	30204
dried pinto beans-----	30272	Quinzani Bros., Inc.:	
flour -----	30207, 30212	flour -----	30204
Lit Drug Co.:		Rexall Drug Co.:	
40 Plus and Vita-Bio dietary		Vita-Mates multi-vitamin tab-	
supplements -----	30298	lets -----	30299
Lit Sales Co., Inc. See Lit Drug		Rianda Farms:	
Co.		frozen artichokes -----	30264
Mainland Corp.:		Sisk., Albert W., & Son:	
Diet-All -----	30297	canned tomatoes-----	30279-30282
Marja Acres, Inc.:		Smotherman-Womack Co., Inc.:	
frozen eggs-----	30249	rolled oats, macaroni, elbow	
Meridian Distributors:		macaroni, pinto beans, sugar,	
canned tomatoes-----	30278	and potatoes-----	30237
Mid-West Tea Packing Co.:			
tea bags-----	30202		

² (30216, 30229, 30254) Injunction issued.

	N.J. No.		N.J. No.
Special Sales Products:		Valley Shelling Co.:	
Vita-Mates multi-vitamin tablets	30299	shelled walnuts	30293
Standard Brands, Inc.:		Viborg Cooperative Elevator Association:	
brewer's yeast	30295, 30296	oats	30230
frozen eggs	30242	Vines Egg Co., Inc.:	
Standard Wholesale Co., Inc.:		frozen eggs	30244
flour	30205	Waldbaum, Milton G., Co.:	
Super Valu Stores, Inc.:		dried eggs	30253
tea bags	30202	Weaver Bros., Inc.:	
Tanner, J. C.:		frozen eggs	30247
dried sugar beet pulp with molasses and dried sugar beet pulp	² 30254	Wetonka Equity Exchange:	
Teslow, Inc.:		wheat	30216
wheat	30219	Whitson Food Products:	
Texas Nut Co.:		dried Great Northern beans and navy beans	30270
shelled pecans	30288	Woods Farmers Cooperative Elevator Co.:	
Tri-Valley Growers:		oats	30232
canned tomatoes	30283	Wright, John N., Jr., Inc.:	
Tuttle Farmers Elevator:		canned tomatoes	30281
wheat	30228		

² (30216, 30229, 30254) Injunction issued.

32117

U.S. Department of Health, Education, and Welfare
FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD,
DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

30301-30400

FOODS

The cases reported herewith were instituted in the United States district courts by United States attorneys, acting upon reports submitted by the Department of Health, Education, and Welfare. They involve foods which were alleged to be adulterated or misbranded within the meaning of the Act, when introduced into and while in interstate commerce, or while held for sale after shipment in interstate commerce. These cases involve (1) seizure proceedings in which decrees of condemnation were entered after default, or consent; and (2) criminal proceedings which were terminated upon pleas of guilty and nolo contendere. The seizure proceedings are civil actions taken against the *goods* alleged to be in violation, and the criminal proceedings are against the *firms* or *individuals* charged to be responsible for violations.

Published by direction of the Secretary of Health, Education, and Welfare.

JAMES L. GODDARD, *Commissioner of Food and Drugs.*

WASHINGTON, D.C., May 12, 1966.

CONTENTS

	Page		Page
Cereals and cereal products.....	520	Fish and shellfish.....	534
Flour.....	520	Fruits and vegetables.....	537
Macaroni and noodle products.....	522	Dried fruit.....	537
Miscellaneous cereals and		Fresh fruit.....	537
cereal products.....	524	Frozen fruit.....	538
Confectionery, sirup, and related		Miscellaneous fruit products..	538
products.....	525	Vegetables and vegetable	
Confectionery.....	525	products.....	540
Sirup and related products... ..	528	Nuts and nut products.....	542
Dairy products.....	530	Vitamin, mineral, and other	
Butter.....	530	products of special dietary	
Cheese.....	531	significance.....	546
Eggs.....	531	Index.....	549
Feeds and grains.....	534		

519

U. S. DEPT. OF AGRICULTURE
NATIONAL AGRICULTURAL LIBRARY

JUL 15 1966

SECTIONS OF FEDERAL FOOD, DRUG, AND COSMETIC ACT INVOLVED IN ALLEGED VIOLATIONS REPORTED IN F.N.J. NOS. 30301-30400

Adulteration, Section 402(a)(1), the article contained a poisonous or deleterious substance which might render it injurious to health; Section 402(a)(2)(B), the article was a raw agricultural commodity and contained a pesticide chemical which was unsafe within the meaning of Section 408(a); Section 402(a)(2)(C), the article contained a food additive which was unsafe within the meaning of Section 409; Section 402(a)(3), the article consisted in whole or in part of a filthy, putrid, or decomposed substance, or it was otherwise unfit for food; Section 402(a)(4), the article had been prepared, packed, or held under insanitary conditions whereby it might have become contaminated with filth or might have been rendered injurious to health; Section 402(b)(1), a valuable constituent had been in whole or in part omitted or abstracted from the article; Section 402(b)(2), a substance had been substituted in whole or in part for the article; Section 402(b)(4), a substance had been added to the article or mixed or packed therewith so as to make it appear better or of greater value than it was; Section 408(a), a poisonous or deleterious pesticide chemical, or a pesticide chemical not generally recognized, among qualified experts as safe for use, added to a raw agricultural commodity, was deemed to be unsafe because no tolerance or exemption from the requirement of a tolerance for such pesticide chemical in or on the raw agricultural commodity had been prescribed by the Secretary of Health, Education, and Welfare; and Section 409, a food additive was deemed to be unsafe because the food additive and its use or intended use failed to conform to the terms of an effective exemption or because there was not in effect, or the food additive and its use or intended use failed to be in conformity with, a regulation prescribing conditions for safe use.

Misbranding, Section 403(a), the labeling of the article was false and misleading; Section 403(e), the article was in package form, and it failed to bear a label containing (1) the name and place of business of the manufacturer, packer, or distributor, and (2) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count; Section 403(g)(1), the article purported to be or was represented as a food for which a definition and standard of identity had been prescribed by regulations and it failed to conform to such definition and standard; Section 403(h), the article purported to be or was represented as (1) a food for which a standard of quality had been prescribed by regulations, and its quality fell below such standard or (2) a food for which a standard of fill of container had been prescribed by regulations and it fell below the applicable standard of fill of container; Section 403(i), the article was not subject to the provisions of Section 403(g) and (1) its label failed to bear the common or usual name of the article, and (2) the article was fabricated from two or more ingredients, and its label failed to bear the common or usual name of each such ingredient.

CEREALS AND CEREAL PRODUCTS

FLOUR*

30301. Flour. (F.D.C. No. 50796. S. Nos. 37-865/6 X, 73-059/60 A.)

INFORMATION FILED: 3-24-65, W. Dist. La., against Louisiana Wholesale Distributors, a partnership, Alexandria, La.

*See also No. 30318.

ALLEGED VIOLATIONS: Between 8-13-62 and 4-10-64, while quantities of flour were being held for sale after shipment in interstate commerce, the defendants caused the articles to be held in a building accessible to rodents and insects and caused the article to be exposed to contamination by rodents and insects, which act resulted in the article being adulterated.

CHARGE: 402(a)(3)—contained rodent urine (counts 1, 3, and 4), and tribolium, sawtoothed grain, and cadelle beetles (count 2); and 402(a)(4)—held under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 8-17-65. \$700 fine.

30302. Flour. (F.D.C. No. 50788. S. No. 14-975 A.)

INFORMATION FILED: 4-2-65, Dist. Mass., against Warren Baking Corp., Cambridge, Mass., and Salvatore Giacchetto, treasurer.

ALLEGED VIOLATIONS: Between 7-10-64 and 7-16-64, while quantities of flour were being held for sale after shipment in interstate commerce, the defendants caused the flour to be held in a building accessible to insects and to be exposed to contamination by insects by placing the flour in insect-contaminated flour conveying equipment, which act resulted in the flour being adulterated.

CHARGE: 402(a)(3)—contained insects and insect parts; and 402(a)(4)—held under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 8-24-65. Each defendant—\$250 fine.

30303. Flour, rye bread, and enriched white bread. (F.D.C. No. 50813. S. Nos. 35-925/8 A.)

INFORMATION FILED: 8-9-65, W. Dist. Ky., against Nick Warisse Baking Co., Inc., Louisville, Ky.

ALLEGED VIOLATIONS: Between 6-24-64 and 7-28-64, while quantities of flour were being held for sale after shipment in interstate commerce, the defendant caused the flour to be held in a building that was accessible to insects and to be exposed to contamination by insects, by placing the flour in insect-contaminated flour conveying equipment, which acts resulted in the article being adulterated.

The defendant also caused the introduction into interstate commerce of bread which was adulterated as described below.

LABEL IN PART: (Loaves) "Aunt Hattie's Bread 1¼ Lbs. Old Settler thin sliced Rye Nick Warisse Baking Co., Inc., Louisville Ky.," and "Aunt Hattie's White Enriched Bread Nick Warisse Baking Co., Inc., Louisville, Ky."

CHARGE: 402(a)(3)—the flour contained insects, insect larvae, insect pupae, and cast skins; the rye bread contained insect fragments; the enriched bread contained fly fragments; and 402(a)(4)—the flour had been held and the breads prepared under insanity conditions.

PLEA: Nolo contendere.

DISPOSITION: 10-8-65. \$400 fine of which \$200 was suspended, and probation for 1 year.

30304. Self-rising flour. (F.D.C. No. 51372. S. Nos. 74-765/7 A, 41-982 B.)

INFORMATION FILED: 8-31-65, N. Dist. Ala., against Noah M. Gilbreath, t/a Oneonta Wholesale Grocery Co., Oneonta, Ala.

ALLEGED VIOLATION: Between 3-2-64 and 1-13-65, while a number of bags of flour were being held for sale after shipment in interstate commerce, the defendant caused the article to be held in a building that was accessible to rodents and to be exposed to contamination by rodents, which acts resulted in the article being adulterated.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 9-24-65. \$100 fine.

30305. Self-rising flour. (F.D.C. No. 50921. S. No. 135-367 A.)

QUANTITY: 250 25-lb. bags, at Valdosta, Ga., in possession of the A. S. Pendleton Co., Inc.

SHIPPED: 9-18-64, from Chattanooga, Tenn.

LIBELED: 1-8-65, M. Dist. Ga.

CHARGE: 402(a)(3)—contained insects, insect larvae, and insect parts; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 2-16-65. Default—denatured and delivered to a public institution for animal feed.

30306. Flour. (F.D.C. No. 51542. S. No. 84-768 B.)

QUANTITY: 26 50-lb. bags, at Athens, Tex., in possession of Robbins Bros. Wholesale Grocery.

SHIPPED: 7-12-65, from Yukon, Okla.

LIBELED: 8-3-65, E. Dist. Tex.

CHARGE: 402(a)(3)—contained insects; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 10-15-65. Default—destruction.

MACARONI AND NOODLE PRODUCTS

30307. Egg noodles. (F.D.C. No. 50811. S. Nos. 10-718/20 A.)

INFORMATION FILED: 2-26-65, Dist. Md., against Frank Gee, t/a World Noodle Co., Baltimore, Md.

SHIPPED: Between 8-20-64 to 9-10-64, from Baltimore, Md., to District of Columbia.

LABEL IN PART: (Box) "Egg Noodles Net Weight 60 Lbs. World Noodle Co. * * * Baltimore 1, Md."

CHARGE: 402(b)(1)—when shipped, a valuable constituent of the article, eggs, had been in part omitted from the food; 403(g)(1)—the article failed to conform to the definition and standard of identity for egg noodles, since the total solids of the food contained less than 5.5 percent by weight of the solids of egg or egg yolk.

PLEA: Nolo contendere.

DISPOSITION: 4-2-65. \$100 fine, plus costs, and probation for 2 years.

30308. Egg noodles. (F.D.C. No. 50485. S. Nos. 7-643 A, 8-247 A, 12-597/S A, 12-809 A.)

INFORMATION FILED: 3-25-65, Dist. Mass., against Luso-American Macaroni Manufacturing Co., Inc., and Antonio J. Pereira, president and treasurer, Fall River, Mass.

SHIPPED: Between 1-2-64 and 3-16-64, from Fall River, Mass., to Pawtucket, R.I., and Richmond, Va.

LABEL IN PART: (Case) "VENUS EGG NOODLES MEDIUM [or "FINE" or "WIDE"] 10 LB. NET," and "FINER FOODS BRAND EGG NOODLES MEDIUM 10 LB. NET."

CHARGE: 402(b)(1)—when shipped, a valuable constituent, solids of egg, or egg yolk, had been in part omitted from the article; 403(g)(1)—the article failed to conform to the definition and standard of identity for egg noodles, since the total solids of the article contained less than 5.5 percent by weight of the solids of egg or egg yolk.

PLEA: Guilty.

DISPOSITION: 9-13-65. Corporation—\$1,000 fine; Pereira—\$1,000 fine.

30309. Egg noodles. (F.D.C. No. 51316. S. No. 34-875 A.)

INFORMATION FILED: 7-7-65, S. Dist. Ohio, against Freeman Food Distributors, a partnership, Cincinnati, Ohio, and Martin A. Freeman, partner.

ALLEGED VIOLATION: Between 2-21-63 and 4-27-64, while quantities of egg noodles were being held for sale after shipment in interstate commerce, the defendants caused the article to be held in a building that was accessible to insects and to be exposed to contamination by insects, which act resulted in the article being adulterated.

CHARGE: 402(a)(3)—contained insects, insect parts, and insect excreta; and 402(a)(4)—held under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 9-9-65. Partnership—\$500 fine, \$400 of which was suspended; individual—\$500 fine, suspended.

30310. Enriched egg noodles. (F.D.C. No. 51275. S. Nos. 2-210/11 B.)

QUANTITY: 262 cases, each containing 12 12-oz. bags, at Cincinnati, Ohio.

SHIPPED: 3-16-65, from Louisville, Ky., by Delmonico Food, Inc.

LABEL IN PART: (Bag) "Delmonico Chef Tony Vitamin Enriched * * * Pure Egg Noodles * * * 4 Ounces of this product provide the following proportions of the minimum daily adult requirements of these essential food substances: Thiamin (Vitamin B-1) 50%, Riboflavin (Vitamin B-2) 25%, Niacin (Another B Vitamin) 40%, and Iron 32.5% * * * Made by Delmonico Foods, Inc., Louisville, Kentucky."

LIBELED: 4-19-65, S. Dist. Ohio.

CHARGE: 402(a)(1)—when shipped, the article contained an added poisonous and deleterious substance, Salmonella micro-organisms, which may have rendered it injurious to health; and 403(g)(1)—the article failed to conform to the definition and standard of identity for enriched egg noodles, since it contained less than 4 milligrams of thiamin, less than 1.7 milligrams of riboflavin, and less than 27 milligrams of niacin in each pound.

DISPOSITION: 6-14-65. Default—destruction.

MISCELLANEOUS CEREALS AND CEREAL PRODUCTS

30311. Rice. (F.D.C. No. 51688. S. No. 16-074 B.)

QUANTITY: 55 100-lb. bags at Los Angeles, Calif.

SHIPPED: Between 5-21-65 and 8-12-65, from Stuttgart, Ark.

LIBELED: 9-21-65, S. Dist. Calif.

CHARGE: 402(a) (3)—contained insects, insect parts, and insect excreta while held for sale.

DISPOSITION: 10-18-65. Default—destruction.

30312. Unpopped popcorn and dried pinto beans. (F.D.C. No. 51226. S. Nos. 36-227 A, 41-074 A.)

INFORMATION FILED: 7-16-65, W. Dist. Tex., against Saldana & Garza, Inc., and Alfonso Garza, Jr., vice president, San Antonio, Tex.

ALLEGED VIOLATION: Between 5-25-64 and 11-12-64, while quantities of popcorn and pinto beans were being held for sale after shipment in interstate commerce, the defendants caused the articles to be placed in a building that was accessible to insects and rodents and to be exposed to contamination by insects and rodents, which acts resulted in the articles being adulterated.

CHARGE: 402(a) (3)—contained insects and insect larvae (popcorn), and rodent urine (pinto beans); and 402(a) (4)—held under insanitary conditions.

PLEA: Guilty by corporation to 2 counts; by individual to 1 count.

DISPOSITION: 9-13-65. Corporation—\$500 fine; individual—\$100 fine.

30313. Wheat. (F.D.C. No. 50920. S. Nos. 53-013 A, 34-901 B.)

QUANTITY: 120,100 lbs. at Ottawa Lake, Mich.

SHIPPED: 12-22-64, from Emmett, Mich., to Toledo, Ohio, by Michigan Bean Co., and reshipped to Ottawa Lake, Mich., on 1-7-65.

LIBELED: 1-11-65, E. Dist. Mich.

CHARGE: 402(a) (3)—contained rodent excreta pellets when shipped.

DISPOSITION: 2-3-65. Consent—claimed by the Wickes Corp., Saginaw, Mich., and cleaned.

30314. Wheat. (F.D.C. No. 49845. S. No. 104-247 A.)

QUANTITY: 123,000 lbs. at Seattle, Wash.

SHIPPED: 3-4-64, from Hingham, Mont., by Anderson Grain Co.

LIBELED: 3-18-64, W. Dist. Wash.

CHARGE: 402(a) (3)—contained rodent excreta pellets when shipped.

DISPOSITION: 3-30-64. Consent—claimed by Anderson Grain Co., and denatured.

30315. Wheat. (F.D.C. No. 50524. S. No. 59-860 A.)

QUANTITY: 38,160 lbs. at Western, Nebr.

SHIPPED: 8-29-64, from Western, Nebr., to Kansas City, Kans., by W. T. Barstow Grain Co., and returned thereafter.

LIBELED: 9-15-64, Dist. Nebr.

CHARGE: 402(a) (3)—contained rodent excreta pellets when shipped.

DISPOSITION: 10-26-65. Consent—claimed by W. T. Barstow Grain Co., and denatured.

30316. Wheat. (F.D.C. No. 51177. S. No. 8-590 B.)

QUANTITY: 108,000 lbs. at Kansas City, Kans.

SHIPPED: 4-19-65, from Table Rock, Nebr., by Binder Grain Co.

LIBELED: 5-3-65, Dist. Kans.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 5-26-65. Consent—claimed by Binder Grain Co. Reconditioned; 19,400 lbs. denatured.

30317. Wheat. (F.D.C. No. 51186. S. No. 95-538 B.)

QUANTITY: 106,500 lbs. at Kansas City, Kans.

SHIPPED: 4-27-65, from Kirwin, Kans., to Kansas City, Mo., by the Farmers Union Cooperative Marketing Association, and reshipped to Kansas City, Kans., thereafter.

LIBELED: 5-13-65, Dist. Kans.

CHARGE: 402(a)(3)—when shipped, contained rodent excreta pellets.

DISPOSITION: 6-2-65. Consent—claimed by the Farmers Union Cooperative Marketing Association. Segregated and reconditioned; 12,350 lbs. denatured.

30318. Cake mix, flour, pie flour, and cornmeal. (F.D.C. No. 50483. S. Nos. 93-442/3 X, 93-445 X, 93-447 X.)

INFORMATION FILED: 1-25-65, Dist. Mass., against Allied Bakers Supply, Inc., Raymond Marad, president and treasurer, and George W. Schaub, clerk, Cambridge, Mass.

ALLEGED VIOLATIONS: Between 9-6-63 and 12-3-63, while quantities of cake mix, flour, pie flour and cornmeal were being held for sale after shipment in interstate commerce, the defendants caused the articles to be held in a building accessible to rodents and caused the articles to be exposed to contamination by rodents, which acts resulted in the articles being adulterated.

CHARGE: 402(a)(4)—held under insanitary conditions.

PLEA: Guilty by corporation; nolo contendere by individuals.

DISPOSITION: 10-5-65. Corporation—\$500 fine; each individual—\$100 fine.

30319. Donut mix. (F.D.C. No. 51299. S. No. 32-888 B.)

QUANTITY: 16 100-lb. bags, at St. Petersburg, Fla., in possession of Tropical Grocery Co.

SHIPPED: 2-15-65, from Atlanta, Ga.

LIBELED: 5-17-65, M. Dist. Fla.

CHARGE: 402(a)(3)—contained insect larvae and insect webbing; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 9-20-65. Default—destruction.

CONFECTIONERY, SIRUP, AND RELATED PRODUCTS

CONFECTIONERY

30320. Candy. (F.D.C. No. 50609. S. Nos. 39-828 A, 73-080 A.)

INFORMATION FILED: 12-16-64, N. Dist. Tex., against C & C Candy Co., a partnership, Fort Worth, Tex., and Courts K. Cleveland, partner.

SHIPPED: 2-3-64 and 3-31-64, from Fort Worth, Tex., to Oklahoma City, Okla., and Baton Rouge, La.

LABEL IN PART: (Bag) "Tom's Peanut Pralines Ingredients: sugar, corn syrup, peanuts, artificial color and flavoring Net Wt. 12 Ozs. Distributed by Tom Huston Peanut Co. Columbus, Ga." and (wrappers) "Tom's Peanut Pattie Net Wt. 1¾ Ozs. Contains sugar, peanuts, glucose, artificial color and flavor Distributed by Tom Huston Peanut Co., Columbus, Georgia."

CHARGE: 402(a) (3)—contained rodent hairs and insect fragments; and 402(a) (4)—prepared and packed under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 6-4-65. Partnership—fined \$1,000; Cleveland—imprisonment for 60 days.

30321. Candy, sour lemon kisses, coconut and peanut candy, sour cherry kisses, mint candy, and horehound kisses. (F.D.C. No. 50182. S. Nos. 47-117 X, 38-516 A, 40-063 A, 85-452 A, 85-455 A, 86-150 A.)

INFORMATION FILED: 7-21-64, W. Dist. Okla., against Larry L. Woody, t/a Woody Candy Co., Oklahoma City, Okla.

SHIPPED: Between 9-20-63 and 1-17-64, from Oklahoma to Arkansas and Missouri.

LABEL IN PART: (Bag) "Woody's Old-Fashioned Peanut Butter Net Wt. 8 Oz. Ing.: Sugar, Corn syrup, Salt, Peanut Butter, Artificial Color Manufactured By Woody Candy Company—Oklahoma City, Okla.," (boxes) "Woody's Sour Lemon Kisses 80 Ct. 1¢ Ing.: Corn Syrup, Sugar, Citric Acid, Natural and Artificial Flavor, U.S. Certified Color, Coconut Oil Woody Candy Co. Oklahoma City, Okla.," (box) "Woody's Sour Cherry Kisses 80 Ct. 1¢ Ing.: Corn Syrup, Sugar, Citric Acid, Natural and Artificial Flavor, U.S. Certified Color, Coconut Oil Woody Candy Co. Oklahoma City, Okla.," (box) "Woody's Horehound Kisses 80 Ct. 1¢ Ingredients: Sugar, Corn Syrup, Citric Acid, Tartaric Acid, Natural and Artificial Flavors, U.S. Certified Color, Coconut Oil Manufactured By Woody Candy Co. Okla. City, Okla.," (pkg.) "Virginia's Peco-Peco Cocoanut and Peanuts Ingredients: Cane Sugar, Corn Syrup, Cocoanut, Peanuts, Soda, Salt Net Wt. 9 ozs. Woody Candy Company Oklahoma City, Okla." and (bags) "Woody's Mint Lumps Net Wt. 9 Oz. Ing.: Sugar, Corn Syrup, Corn Starch, Glycerine, Gelatin, Gum Tragacanth and Peppermint Oil Manufactured By Woody Candy Company—Oklahoma City, Okla."

CHARGE: 402(a) (3)—contained insects, insect fragments, and rodent hairs; and 402(a) (4)—prepared and packed under insanitary conditions.

PLEA: Nolo contendere.

DISPOSITION: 2-1-65. \$150 fine and probation for 6 months.

30322. Candy. (F.D.C. No. 50489. S. Nos. 12-628 A, 12-630/1 A, 12-671 A, 12-673 A, 13-099/100 A, 13-835 A.)

INFORMATION FILED: 6-10-65, Dist. Mass., against Liberty Chocolate Co., Inc., Boston, Mass.

SHIPPED: Between 1-7-64 and 1-22-64, from Boston, Mass., to Portland, Maine, and Pawtucket, R.I.

LABEL IN PART: (Pkg.) "Valentine Greetings Net Wt. 1 Lb. LIBERTY CHOCOLATE CO. Incorporated Boston, Mass.," "120 Count 1c EACH PEPPER-

MENT PATTIE FRAPPE Mfg. by LIBERTY CHOCOLATE CO., INC., BOSTON, MASS.," "120 COUNT 1c EACH VANILLA OLD FASHION Mfg. by LIBERTY CHOCOLATE CO., INC., BOSTON, MASS.," or ["RASPBERRY FLAVORED FRAPPE"] or ["COCOANUT FLAVORED CREAMS"] or ["ROMAN PUNCH CORDIALS"].

CHARGE: 402(a)(3)—contained insect parts and rodent hairs; and 402(a)(4)—prepared under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 9-21-65. \$1,000 fine.

30323. Candy bars. (F.D.C. No. 51436. S. No. 49-700 B.)

QUANTITY: 27 cases, each containing 100 individually wrapped candy bars, at Rochester, N.Y.

SHIPPED: 5-29-65, from Pittsburgh, Pa., by D. L. Clark Co.

LABEL IN PART: (Candy wrapper) "CLARK * * * Net Wt. 2 oz. * * * Made by The D. L. Clark Company, Pittsburgh 12, Pa."

RESULTS OF INVESTIGATION: Examination showed the article to be short weight.

LIBELED: 6-21-65, W. Dist. N.Y.

CHARGE: 403(e)(2)—when shipped, the article failed to bear a label containing an accurate statement of the quantity of contents.

DISPOSITION: 9-17-65. Default—destruction.

30324. Candy wafers. (F.D.C. No. 51183. S. No. 49-422 B.)

QUANTITY: 84 cases of 24 pkgs., each pkg. containing 20 rolls, at Cheektowaga, N.Y.

SHIPPED: 3-2-65, from Elizabeth, N.J., by Ce De Candy, Inc.

LABEL IN PART: (Pkg.) "Assorted Flavors Smarties Candy Wafers * * * 4 oz. * * * Ce De Candy, Inc., Elizabeth, N.J."

RESULTS OF INVESTIGATION: Examination showed that the article was 8.25 percent short weight.

LIBELED: 5-7-65, W. Dist, N.Y.

CHARGE: 403(e)(2)—when shipped, the article failed to bear a label containing an accurate statement of quantity of contents.

DISPOSITION: 8-4-65. Default—destruction.

30325. Candy wafers. (F.D.C. No. 51190. S. No. 48-736 B.)

QUANTITY: 37 cases of 24 boxes, each containing 20 rolls, at Syracuse, N.Y.

SHIPPED: 3-4-65, from Elizabeth, N.J., by Ce De Candy, Inc.

LABEL IN PART: (Box) "Assorted Flavors Smarties Candy Wafers 20 Rolls * * * 4 oz. * * * Ce De Candy, Inc., Elizabeth, N.J."

RESULTS OF INVESTIGATION: Examination showed that the article was approximately 7¾ percent short weight.

LIBELED: 5-20-65, N. Dist. N.Y.

CHARGE: 403(e)(2)—when shipped, the article failed to bear a label containing an accurate statement of quantity of contents.

DISPOSITION: 6-15-65. Default—destruction.

30326. Marshmallows. (F.D.C. No. 50909. S. No. 46-658 A.)

QUANTITY: 74 cases, each containing 48 5-oz. pkgs., at Denver, Colo.

SHIPPED: 12-3-64, from Kansas City, Kans., by Fireside Marshmallow, Inc.

LABEL IN PART: (Pkg.) "Fireside Marshmallows—Fireside Marshmallow, Inc., Kansas City, Kansas A Subsidiary of Dextra Corporation."

RESULTS OF INVESTIGATION: Inspection of Fireside Marshmallow, Inc., showed that the article was prepared and packed under insanitary conditions.

LIBELED: 1-6-65, Dist. Colo.

CHARGE: 402(a)(3)—when shipped, contained rodent hairs; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 2-12-65. Default—destruction.

30327. Popped corn Karmalettes, carmel corn, and cheese-dipped popcorn. (F.D.C. No. 51189. S. Nos. 13-150/2 B.)

QUANTITY: 7 ctns. of 24 9-oz. bags each of Karmalettes, 20 ctns. of 12 12-oz. bags each of carmel corn, and 26 ctns. of 12 8-oz. bags each of cheese-dipped popcorn, at Denver, Colo.

SHIPPED: 4-21-65, from Earlville, Ill., by Maize Industries.

LABEL IN PART: (Bag) "Rum'n Toffee Karmalettes * * * Twin Pack—Maize Industries Earlville, Illinois," "Honey'n Butter Kornmel—Carmel Corn—Maize Industries Earlville, Illinois," and "Cheese Dipped Pop-ees—Maize Industries Earlville, Illinois."

LIBELED: 5-17-65, Dist. Colo.

CHARGE: 402(a)(3)—contained rodent hairs and (cheese-dipped popcorn) feather barbules; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 7-2-65. Default—destruction.

SIRUP AND RELATED PRODUCTS**30328. Sorghum sirup.** (F.D.C. No. 50925. S. Nos. 30-456 A, 2-449 B.)

QUANTITY: 15 cases, each containing 12 22-oz. btls., at Columbus, Ohio.

SHIPPED: 10-12-64, from Joplin, Mo., by L. W. Lansaw.

LABEL IN PART: (Btl.) "New Crop Country Sorghum Made for and sold by L. W. Lansaw—Joplin, Mo."

LIBELED: 1-15-65, S. Dist. Ohio; libel amended 2-5-65.

CHARGE: 402(b)(2)—when shipped, a sweetening substance other than sorghum sirup had been substituted in whole or in part for sorghum sirup; and 403(a)—the label statement "Sorghum" was false and misleading as applied to a product containing a sweetening substance other than sorghum sirup.

DISPOSITION: 4-26-65. Default—delivered to a public institution for human consumption.

30329. Sorghum sirup. (F.D.C. No. 50772. S. No. 84-480 A.)

QUANTITY: 14 cases, each containing 12 4½-lb. cans, at Sappington, Mo.

SHIPPED: 10-1-64, from West Monroe, La.

LABEL IN PART: (Can) "Country Sorghum New Crop Made From Cane Juice Made For Ray Sloan, Distr.—Joplin, Missouri."

RESULTS OF INVESTIGATION: The article was shipped in unlabeled cans from West Monroe, La., to Raymond Sloan, Joplin, Mo., who labeled the article as described above.

LIBELED: 12-16-64, E. Dist. Mo.

CHARGE: 402(b) (2)—while held for sale, a mixture of sugar sirup, sugar cane sirup, and sorghum sirup had been substituted in whole or in part for sorghum sirup; and 403(a)—the label statement "Sorghum" was false and misleading as applied to a product consisting of a mixture of sorghum sirup, sugar cane sirup, and sugar sirup.

DISPOSITION: 2-19-65. Consent—claimed by Sappington Fruit & Produce, St. Louis County, Mo., and relabeled.

30330. Sorghum sirup. (F.D.C. No. 50937. S. No. 86-115 A.)

QUANTITY: 134 cases of 12 4½-lb. cans each, at Lebanon, Mo.

SHIPPED: Between 8-1-64 and 9-30-64, from West Monroe, La., by Old Mill Syrup Co.

LABEL IN PART: (Can) "New Crop County Sorghum Made for Roy McClain Carthage, Mo."

LIBELED: 1-29-65, W. Dist. Mo.

CHARGE: 402(b) (2)—when shipped, a sweetening substance other than sorghum sirup had been substituted in whole or in part for sorghum sirup; and 403(a)—the label statement "Sorghum" was false and misleading as applied to a product containing a sweetening substance other than sorghum sirup.

DISPOSITION: 8-4-65. Consent—claimed by Lebanon Wholesale Grocer Co., Lebanon, Mo., and relabeled.

30331. Sorghum molasses. (F.D.C. No. 51185. S. No. 18-720 B.)

QUANTITY: 154 cases of 12 btls. each, at Shafter, Calif.

SHIPPED: 11-19-64, from Frisco, Tex., by Stroupe's Pure Honey Co.

LABEL IN PART: (Btl.) "Pure Sorghum Molasses Contents 22 Fl. Oz. Distributed by S. L. Myrick Shafter, California."

RESULTS OF INVESTIGATION: Examination showed that the article was approximately 5.4 percent short in volume.

LIBELED: 5-11-65, S. Dist. Calif.

CHARGE: 403(e) (2)—when shipped, the article failed to bear a label containing an accurate statement of quantity of contents.

DISPOSITION: 8-5-65. Consent—claimed by S. L. Myrick, and relabeled.

30332. Molasses sirup and cane sirup. (F.D.C. No. 51286. S. Nos. 21-908/09 B.)

QUANTITY: 194 labeled and unlabeled jars of molasses sirup, and 88 labeled and unlabeled jars of cane sirup, at Athens, Tex., in possession of Phillips Produce.

SHIPPED: 11-20-64, from West Monroe, La.

LABEL IN PART: (Jar) "New Crop Old Grand Dad Molasses * * * Sold By H. S. Phillips Athens, Texas * * * Contains * * * Contents 45 Ozs. or More," and "New Crop Ribbon Cane Syrup Sold by H. S. Phillips Athens, Texas Contents 45 Ounces or More."

RESULTS OF INVESTIGATION: The articles were shipped unlabeled. Thereafter, the dealer labeled some of the articles as described above.

Examination showed that the labeled jars of molasses sirup were approximately 14 oz. short weight, and the labeled jars of cane sirup were approximately 13 oz. short weight.

LIBELED: 4-28-65, E. Dist. Tex.

CHARGE: Unlabeled jars (both lots), 403(e)—while held for sale, the articles failed to bear a label containing (1) the name and place of business of the manufacturer, packer, or distributor, and (2) a statement of the quantity of the contents; and 403(i) (1)—the articles failed to bear labels containing the common or usual name of the food.

Labeled jars (both lots), 403(e) (2)—while held for sale, the articles failed to bear a label containing an accurate statement of the quantity of the contents, since the label statement "Contents 45 Ozs. or More" is inaccurate.

DISPOSITION: 8-23-65. Default—delivered to a Federal institution for its use.

30333. Ice cream toppings and sirups. (F.D.C. No. 50177. S. Nos. 61-959 T, 62-070 T, 62-510 T, 6-009 X, 6-065 X, 6-067 X, 7-761/2 X, 7-785 X.)

INFORMATION FILED: 12-10-64, Dist. Mass., against Snow Crest Finer Foods, Inc., Salem, Mass., and Edward Rachins, president and treasurer.

SHIPPED: Between 6-13-62 and 8-23-63, from Massachusetts to Maine, Connecticut, and Rhode Island.

LABEL IN PART: "Snow Crest Pineapple [or "Strawberry"] Ice Cream Topping, Mfd. by Snow Crest Bev. Inc. Salem, Mass. Net Wt. 14-ozs. [or "7 ozs.]" and "Snow Crest Syrup Genuine Vanilla [or "Coffee"] Flavor. Mfd. by Snow Crest Finer Foods, Inc. [or "Mfd. by Food Division Snow Crest Beverages, Inc.]" Salem, Mass. Net Weight 1-lb. 6-oz."

RESULTS OF INVESTIGATION: Examination showed that the articles were short weight.

CHARGE: 403(e) (2)—the articles failed to bear a label containing an accurate statement of the quantity of contents when shipped.

PLEA: Guilty.

DISPOSITION: 3-1-65. Corporation—\$2,250 fine; Rachins—\$1,800 fine.

DAIRY PRODUCTS

BUTTER

30334. Butter. (F.D.C. No. 50198. S. Nos. 8-043/4 B.)

QUANTITY: 80 64-lb. boxes at Kansas City, Kans.

SHIPPED: 5-6-65, from Superior, Nebr., by Farmers Union Cooperative Creamery Co.

LABEL IN PART: (Stamp on boxes) "BUTTER KEEP REFRIGERATED."

LIBELED: 6-18-65, Dist. Kans.

CHARGE: 402(b) (2)—when shipped, a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: 8-12-65. Consent—claimed by Farmers Union Cooperative Creamery Co., and reworked.

CHEESE

30335. Cheddar cheese (2 seizure actions). (F.D.C. Nos. 50503; 50510. S. Nos. 86-507/9 A; 86-512 A, 86-514 A.)

QUANTITY: 17 bbls., containing approximately 8,900 lbs., 5 bbls., containing approximately 2,639 lbs., and 10 bbls., containing approximately 5,162 lbs., at Clinton, Mo.

SHIPPED: 7-8-64, from Aldrich, Minn., by Cheese Products Co., Inc.

LABEL IN PART: (Bbls.) "Cheese for Manufacturing Purpose Aldrich Milk Products, Inc., Aldrich, Minn."

LIBELED: 8-12-64, 8-24-64, W. Dist. Mo.

CHARGE: 402(a)(3)—all lots contained insect fragments and manure fragments, the 5-bbl. lot contained rodent hairs; and 402(a)(4)—prepared under insanitary conditions.

DISPOSITION: 4-15-65. Consent—delivered to a public institution for use as animal feed only.

30336. Cheddar cheese. (F.D.C. No. 51446. S. No. 28-377 B.)

QUANTITY: 23 40-lb. ctns. at Monticello, Wis.

SHIPPED: 5-21-65, from Red Oak, Ill., by Red Oak Cheese Factory.

LABEL IN PART: (Ctn.) "Cheddar Cheese."

LIBELED: 6-28-65, W. Dist. Wis.

CHARGE: 403(g)(1)—when shipped, the article failed to conform to the definition and standard of identity for cheddar cheese, since the milk used was not pasteurized and the cheese so made was not cured to a temperature of not less than 35 degrees Fahrenheit for not less than 60 days.

DISPOSITION: 8-3-65. Consent—claimed by Red Oak Cheese Factory, and Monroe Cheese Corp., Monroe, Wis., and relabeled.

EGGS

30337. Frozen eggs. (F.D.C. No. 51525. S. Nos. 62-031/2 B.)

QUANTITY: 31 30-lb. cans, at Baltimore, Md., and 96 30-lb. cans, at Easton, Md.

SHIPPED: Between 2-26-65 and 6-29-65, from Hazlehurst, Ga.

RESULTS OF INVESTIGATION: The article was prepared and packed by Bradley Delmarvalous Eggs, Division of Bradley's Hatchery, Inc., Easton, Md., in part from shell eggs shipped from Georgia and subsequently delivered in part to Baltimore, Md.

LIBELED: 7-19-65, Dist. Md.

CHARGE: 402(a)(3)—contained decomposed eggs while held for sale.

DISPOSITION: 8-17-65. Default—destruction.

30338. Frozen eggs. (F.D.C. No. 51547. S. No. 62-044 B.)

QUANTITY: 25 30-lb. cans at Washington, D.C.

SHIPPED: 6-14-65, from Baltimore, Md.

LIBELED: 8-9-65, Dist. Columbia.

CHARGE: 402(a)(3)—contained decomposed eggs while held for sale.

DISPOSITION: 9-16-65. Default—destruction.

30339. Frozen eggs. (F.D.C. No. 50652. S. No. 81-193 A.)

QUANTITY: 33 175-lb. drums at New York, N.Y.

SHIPPED: 5-2-64, from Zanesville, Ohio, by Ballas Egg Products Corp.

LABEL IN PART: (Drum) "Ballas Whole Egg Solids * * * Packed by Ballas Egg Solids, Inc., Zanesville, Ohio."

LIBELED: 10-13-64, S. Dist. N.Y.

CHARGE: 402(a)(1)—when shipped, the article contained an added poisonous and deleterious substance, Salmonella micro-organisms, which may have rendered it injurious to health.

DISPOSITION: 11-25-64. Consent—claimed by Ballas Frozen Foods, Inc., New York, N.Y. Segregated and reconditioned; approximately 175 lbs. destroyed.

30340. Frozen eggs. (F.D.C. No. 51270. S. No. 117-706 B.)

QUANTITY: 34 30-lb. cans at Newark, N.J.

SHIPPED: 3-18-65, from Hillsdale, N.Y., by Pine Lane Poultry Farm, Inc.

LABEL IN PART: (Can lid) "Pine Lane Poultry Farm Hillsdale, N.Y. * * * Whole Eggs."

LIBELED: 4-23-65, Dist. N.J.

CHARGE: 402(a)(3)—contained decomposed eggs when shipped.

DISPOSITION: 8-27-65. Consent—claimed by Pine Lane Poultry Farm, Inc., and denatured.

30341. Frozen eggs. (F.D.C. No. 51426. S. No. 1-956 B.)

QUANTITY: 18 30-lb. cans at Versailles, Ohio.

SHIPPED: On an unknown date from the State of Indiana.

LABEL IN PART: (Can) "Frozen Whole Eggs * * * Packed by Weaver Bros., Inc. Versailles, Ohio Date Packed."

RESULTS OF INVESTIGATION: The article had been prepared and packed by Weaver Bros., Inc., in part from shell eggs shipped as above.

LIBELED: 6-8-65, S. Dist. Ohio.

CHARGE: 402(a)(3)—contained decomposed eggs while held for sale.

DISPOSITION: 6-18-65. Consent—destruction.

30342. Frozen eggs. (F.D.C. No. 51539. S. Nos. 62-742 B, 62-751 B.)

QUANTITY: 79 30-lb. cans at Washington, D.C.

SHIPPED: 6-30-65, from Burgaw, N.C., by Carlisle Poultry & Egg Association, Inc.

LABEL IN PART: (Can lid) "Carlisle Poultry & Egg Assoc. Inc. Burgaw North Carolina * * * Whole Eggs."

LIBELED: 8-3-65, Dist. Columbia.

CHARGE: 402(a)(3)—contained decomposed eggs when shipped.

DISPOSITION: 9-16-65. Default—destruction.

30343. Frozen eggs. (F.D.C. No. 51662. S. No. 62-765 B.)

QUANTITY: 46 cans, each containing approximately 30 lbs., at Baltimore, Md.

SHIPPED: 7-27-65, from Burgaw, N.C., by Carlisle Poultry & Egg Association, Inc.

LABEL IN PART: (Can) "Snow Shell Eggs Hartselle, Ala."

LIBELED: On or about 9-16-65, Dist. Md.

CHARGE: 402(a)(3)—contained decomposed eggs when shipped.

DISPOSITION: 10-12-65. Default—destruction.

30344. Frozen eggs and frozen egg whites. (F.D.C. No. 51537. S. Nos. 85-003/5, 85-008 B.)

QUANTITY: 167 30-lb. cans of frozen whole eggs, and 951 30-lb. cans of frozen egg whites, at Texarkana, Tex.

SHIPPED: 5-17-65 and 6-24-65, from Hope, Ark., by Delight Certified Egg Farms, Inc.

LABEL IN PART: (Can) "Packed by Delight Certified Egg Farms Inc Hope, Arkansas * * * Frozen Whole Eggs [or "Frozen Egg Whites"]."

LIBELED: 7-30-65, E. Dist. Tex.

CHARGE: 402(a)(1)—when shipped, the articles contained an added poisonous and deleterious substance, Salmonella micro-organisms, which may have rendered the articles injurious to health; and 402(a)(3)—44 cans of the whole eggs contained decomposed eggs.

DISPOSITION: 10-22-65. Default—destruction.

30345. Frozen eggs. (F.D.C. No. 51652. S. No. 45-434 B.)

QUANTITY: 25 30-lb. cans at Newport, R.I.

SHIPPED: 7-15-65, from Roxbury, Mass., by J. Fleishman & Co.

LIBELED: On or about 9-8-65, Dist. R.I.

CHARGE: 402(a)(3)—contained decomposed eggs when shipped.

DISPOSITION: 9-29-65. Default—destruction.

30346. Dried egg whites. (F.D.C. No. 51440. S. Nos. 35-171/2 B.)

QUANTITY: 6 150-lb. drums at Jackson, Mich.

SHIPPED: 9-11-64, from Kansas City, Mo., by Tranin Egg Products Co.

LABEL IN PART: (Drum) "Egg Whites Angel Food Cake Type—Contains less than 0.1% Sodium Lauryl Sulfate."

LIBELED: 6-24-65, E. Dist. Mich.

CHARGE: 402(a)(1)—when shipped, the article contained an added poisonous and deleterious substance, Salmonella micro-organisms, which may have rendered it injurious to health.

DISPOSITION: 7-15-65. Consent—claimed by Tranin Egg Products Co., Kansas City, Mo., and reconditioned.

30347. Frozen egg whites. (F.D.C. No. 51546. S. No. 120-508 B.)

QUANTITY: 300 30-lb. cans at Newark, N.J.

SHIPPED: 6-23-65, from Boston, Mass., by Fleishman & Co.

LABEL IN PART: (Can) "Egg Whites Distributed by Mountainside Butter & Egg Co., Elizabeth, New Jersey."

LIBELED: 8-12-65, Dist. N.J.

CHARGE: 402(a)(1)—when shipped, the article contained an added poisonous and deleterious substance, Salmonella micro-organisms, which may have rendered it injurious to health.

DISPOSITION: 9-29-65. Default—destruction.

FEEDS AND GRAINS

30348. Dried sugar beet pulp. (F.D.C. No. 51466. S. No. 108-362 B.)

QUANTITY: 750 50-lb. bags, at Madison, Wis.

SHIPPED: 5-26-65, from Minneapolis, Minn., by I. S. Joseph Co., Inc.

LABEL IN PART: (Bag) "Dried Beet Pulp with Beet molasses * * * Manufactured by American Crystal Sugar Co. East Grand Forks, Minnesota."

LIBELED: 8-2-65, W. Dist. Wis.

CHARGE: 402(a)(2)(C)—when shipped, the article contained dieldrin, a food additive which was unsafe within the meaning of 409, since it and its use and intended use were not in conformity with a regulation or exemption.

DISPOSITION: 9-1-65. Default—destruction.

30349. Dried sugar beet pulp. (F.D.C. No. 51441. S. No. 26-044 B.)

QUANTITY: 799 50-lb. bags at Peoria, Ill.

SHIPPED: 4-21-65, from Minneapolis, Minn., by I. S. Joseph Co., Inc.

LABEL IN PART: (Bag) "Dried Beet Pulp with Beet Molasses * * * Manufactured by American Crystal Sugar Co. East Grand Forks, Minnesota."

LIBELED: 6-24-65, S. Dist. Ill.

CHARGE: 402(a)(2)(C)—when shipped, the article contained dieldrin, a food additive which was unsafe within the meaning of 409, since its use and intended use were not in conformity with a regulation or exemption.

DISPOSITION: 10-28-65. Default—destruction.

FISH AND SHELLFISH

30350. Canned tuna. (F.D.C. No. 50799. S. Nos. 73-872 T, 76-617 T, 77-948 T, 84-805 T, 4-394 V.)

INFORMATION FILED: 4-21-65, W. Dist. Wash., against Pacific Reefer Fisheries, Inc., and Robert J. Breskovich, vice president, Seattle, Wash., and West Coast Fish Co., Inc., and Leo B. Kite, president, Aberdeen, Wash.

SHIPPED: Between 3-27-62 and 10-5-62, from Aberdeen and Seattle, Wash., to Denver, Colo., Somerville, Mass., San Francisco, Calif., Baltimore, Md., and New York, N.Y.

LABEL IN PART: (Can) "Monarch Dietetic Chunk Style Light Tuna in Water [or "Solid Pack White Tuna In Water"] Net Weight 6½ oz. Avoir. Consolidated Foods Corporation Distributors—Chicago, Ill., U.S.A.," and "Moisha's Fancy All White Solid Pack Albacore Tuna Net Contents 7 oz. Avd. Packed for Moisha's New York, N.Y."

CHARGE: 403(h)(2)—when shipped, portions of the article fell below the standard of fill of container for canned tuna since such standard requires for canned tuna where the form of tuna ingredient is chunks, a fill such that the average weight of the pressed cake from 24 cans in a container designated as 307 x 113 is not less than 3.92 ounces, and for canned tuna where the form of tuna ingredient is solid, a fill such that the average weight of the pressed cake from 24 cans in a container designated as 307 x 113 is not less than 4.47 ounces, whereas the article was in containers designated as 307 x 113 and the average weight of pressed cake from 24 cans of the article (chunks) and from 24 cans of the article (solid) was less than that required by the standard, and the label failed to bear a statement that the article fell below such standard.

403(e) (2)—a portion of the article failed to bear a label containing an accurate statement of the quantity of contents, since the label statement (can) "Net Contents 7 oz. Avd." was inaccurate.

PLEA: Guilty by West Coast Fish Co., Inc., to 5 counts, nolo contendere by Leo B. Kite to 1 count, by Pacific Reefer Fisheries, Inc., to 5 counts, and by Robert Breskovich to 1 count.

DISPOSITION: 7-26-65. West Coast Fish Co., Inc.—\$1,000 fine; Kite—\$100 fine. 9-16-65. Pacific Reefer Fisheries, Inc.—\$1,000 fine; Breskovich—\$200 fine.

30351. Frozen red snapper. (F.D.C. No. 51529. S. No. 120-977 B.)

QUANTITY: 724 lbs. at Monmouth Beach, N.J.

SHIPPED: 5-10-65, from New York, N.Y.

LIBELED: On or about 8-11-65, Dist. N.J.

CHARGE: 402(a) (3)—contained decomposed fish while held for sale.

DISPOSITION: 9-14-65. Default—destruction.

30352. Frozen ocean perch fillets. (F.D.C. No. 50584. S. No. 15-744 A.)

QUANTITY: 46 cases, each containing 5 10-lb. ctns. of individually wrapped frozen fish fillets, at Gloucester, Mass.

SHIPPED: These fillets were from fish caught by the fishing vessel "Salvatore & Grace" in the waters of the Atlantic Ocean outside the territorial waters of Massachusetts and landed and unloaded on 8-31-64.

LIBELED: 9-17-64, Dist. Mass.

CHARGE: 402(a) (3)—contained parasitic copepods when shipped.

DISPOSITION: 10-29-64. Consent—claimed by New England Fillet Co., Inc., Boston, Mass. Reconditioned; 120 lbs. destroyed.

30353. Frozen ocean perch fillets. (F.D.C. No. 51543. S. No. 45-592 B.)

QUANTITY: 226 ctns., each containing 12 1-lb. pkgs., at Gloucester, Mass.

SHIPPED: These fillets were prepared and packed by Imperial Seafoods Co., Inc., from fish caught in the waters of the Atlantic Ocean outside the territorial limits of the State of Massachusetts, by fishing vessel "Atlantic" which landed and unloaded on or about 7-14-65, and sold its load of fish, which was subsequently resold to Imperial Seafoods Co., Inc.

LABEL IN PART: (Pkg.) "Seven Seas Ready To Cook Quick Frozen Ocean Perch Fillets Progressive Fish Wharf Inc., Gloucester, Massachusetts."

LIBELED: 8-2-65, Dist. Mass.

CHARGE: 402(a) (3)—contained parasitic copepods when shipped and while held for sale.

DISPOSITION: 10-18-65. Default—destruction.

30354. Frozen flounder fillets. (F.D.C. No. 50775. S. No. 93-359 A.)

QUANTITY: 502 cases, each containing 10 individually cellophane wrapped 5-lb. ctns., at St. Louis, Mo.

SHIPPED: 6-19-64, from Portland, Maine, by Mid Central Fish Co.

LABEL IN PART: (Case) "Wes-Stan Frozen Fld Fillets."

ACCOMPANYING LABELING: Insert labels reading in part: "Frozen Flounder Fillets—Wamsutta Brand Packed by Wes-Stan, Inc., New Bedford, Massachusetts," "Fisherman's Brand Flounder—John Burns Co., Inc., * * * Boston," "Clover Fillets Frozen Flounder—Distributed by Shamrock Fisheries, Inc., Boston, Mass.," and "Flounder Fillets Gem Brand—Processed by Gem Fillet Company, Inc., * * * New Bedford, Mass."

LIBELED: 12-18-64, E. Dist. Mo.

CHARGE: 402(a) (3)—contained decomposed fish fillets when shipped.

DISPOSITION: 2-4-65. Default—destruction.

30355. Frozen fish sticks, scallops, salmon steaks, and codfish pieces. (F.D.C. No. 51379. S. Nos. 17-366/9 B.)

QUANTITY: 5 unlabeled cases, each containing approximately 18 3-lb. unlabeled ctns. of frozen, breaded, uncooked fish sticks; 3 cases, each containing approximately 10 5-lb. unlabeled ctns. of frozen, uncooked, breaded scallops; 4 cases, each containing approximately 10 5-lb. ctns. of frozen, uncooked salmon steaks; and 3 cases, each containing 10 5-lb. unlabeled ctns. of frozen, uncooked codfish pieces, at Phoenix, Ariz.

SHIPPED: Between 2-24-65 and 4-5-65, from Los Angeles, Calif., by Anchor Sea Food Corp.

LABEL IN PART: (Case) "Eastern BRD Scallops," (case and ctn.) "7/8 Dinner," and (case) "Cod 3 Oz."

LIBELED: 5-20-65, Dist. Ariz.

CHARGE: 403(e)—when shipped, the articles failed to bear a label which contained (1) the name and address of the manufacturer, packer, or distributor, and (2) an accurate statement of the quantity of the contents; 403(i) (1)—the label of the articles failed to bear the common or usual name of the foods; and 403(i) (2)—the breaded fish sticks and scallops were fabricated from two or more ingredients and their labels failed to bear the common or usual name of each such ingredient.

DISPOSITION: 7-16-65. Default—delivered to a charitable institution.

30356. Frozen salmon. (F.D.C. No. 51305. S. No. 120-761 B.)

QUANTITY: 10 ctns., containing a total of approximately 1,261 lbs., at Brooklyn, N.Y.

SHIPPED: 10-26-64, from Monmouth Beach, N.J., by Monmouth Beach Cold Storage Co., Inc.

LIBELED: 5-20-65, E. Dist. N.Y.

CHARGE: 402(a) (3)—contained decomposed salmon when shipped.

DISPOSITION: 7-21-65. Default—destruction.

30357. Canned bonita fish. (F.D.C. No. 51420. S. No. 17-570 B.)

QUANTITY: 2,500 ctns., of 48 cans each, at Terminal Island, Calif.

SHIPPED: 3-3-65, from Chimbote, Peru, by Compania Pesquera De Coischico, S.A.

LABEL IN PART: (Can) "Eatwell Brand Chunk Style Bonita Product of Peru * * * Contents 6½ Oz. Packed For Star-Kist Foods, Inc., Terminal Island, Calif."

RESULTS OF INVESTIGATION: Examination showed that samples of the article ranged from 0.6 percent to 2.46 percent short weight.

LIBELED: 5-24-65, S. Dist. Calif.; libel amended 6-14-65.

CHARGE: 403(e)(2)—when shipped, the article failed to bear a label containing an accurate statement of the quantity of contents.

DISPOSITION: 6-16-65. Consent—claimed by Star-Kist Foods, Inc., of Terminal Island, Calif. Segregated; 193 cases were found short weight of which 105 cases were exported back to Peru; the remaining 88 cases were reconditioned.

30358. Frozen crabmeat. (F.D.C. No. 51667. S. No. 11-503 B.)

QUANTITY: 52 cases, each containing 6 5-lb. unlabeled cans, at Seattle, Wash.

SHIPPED: 8-8-65, from Petersburg, Alaska, by Halibut Producer's Cooperative.

LABEL IN PART: (Case) "Frozen Crab * * * H.P.C. Seattle."

RESULTS OF INVESTIGATION: Inspection of the packer, Egelkrout Shellfish, Inc., Petersburg, Alaska, showed that the article was prepared and packed under insanitary conditions.

LIBELED: 9-17-65, W. Dist. Wash.

CHARGE: 402(a)(3)—contained coagulase positive staphylococcus, and *E. coli*; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 10-18-65. Default—destruction.

30359. Frozen breaded shrimp. (F.D.C. No. 51694. S. No. 86-724 B.)

QUANTITY: 39 cases of 24 10-oz. pkgs. each, at San Antonio, Tex.

SHIPPED: 7-27-65, from New Orleans, La., by New Orleans Shrimp Co., Inc.

LABEL IN PART: (Pkg.) "Colonial—Breaded Shrimp—* * *. Packed by New Orleans Shrimp Company, Inc., New Orleans, La."

LIBELED: 9-27-65, W. Dist. Tex.

CHARGE: 402(a)(3)—contained *E. coli*, coagulase positive staphylococci and a high total bacterial count; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 10-25-65. Default—destruction.

FRUITS AND VEGETABLES

DRIED FRUIT

30360. Raisins. (F.D.C. No. 51617. S. No. 44-268 B.)

QUANTITY: 96 30-lb. cases, at Manchester, N.H.

SHIPPED: 7-8-65, from Boston, Mass.

LIBELED: 8-11-65, Dist. N.H.

CHARGE: 402(a)(3)—contained insects while held for sale.

DISPOSITION: 9-14-65. Default—destruction.

FRESH FRUIT

30361. Honeydew melons. (F.D.C. No. 50850. S. No. 119-810 A.)

QUANTITY: 562 crates, each containing 12 melons, at Chicago, Ill.

SHIPPED: 11-17-64, from Phoenix, Ariz., by Comer Produce Co.

LABEL IN PART: (Crate) "Comer Brand * * * Selected Melons Comer Produce Co. Growers and Shippers Main Office Phoenix Arizona."

LIBELED: 11-23-64, N. Dist. Ill.

CHARGE: 402(a)(2)(B)—when shipped, the article was a raw agricultural commodity and contained a pesticide chemical, endrin, which was unsafe within the meaning of 408(a), since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on honeydew melons had been prescribed by regulations.

DISPOSITION: 12-8-64. Default—destruction.

FROZEN FRUIT

30362. Frozen strawberries. (F.D.C. No. 51634. S. No. 54-852 B.)

QUANTITY: 173 cases, each containing 24 1-lb. ctns., at Princeton, W. Va.

SHIPPED: 5-30-65, from Dayton, Tenn.

LIBELED: 8-27-65, S. Dist. W. Va.

CHARGE: 402(a)(3)—contained moldy strawberries while held for sale.

DISPOSITION: 9-21-65. Default—destruction.

30363. Frozen strawberries. (F.D.C. No. 51643. S. Nos. 59-533/35 B.)

QUANTITY: 129 cases, each containing 24 10-oz. pkgs., at Columbus, Ga.

SHIPPED: Between 4-6-65 and 5-22-65, from Dayton, Tenn., by Winter Garden, Inc.

LABEL IN PART: (Pkg.) "Sunny Tennessee Brand Strawberries Frozen Fresh Sliced—With Sugar * * * Packed by Southern Freezing and Preserving Company Dayton, Tennessee."

LIBELED: 8-30-65, M. Dist. Ga.

CHARGE: 402(a)(3)—contained decomposed strawberries when shipped.

DISPOSITION: 10-15-65. Default—destruction.

30364. Frozen strawberries. (F.D.C. No. 51523. S. No. 84-767 B.)

QUANTITY: 10 ctns., each containing 4 10-lb. cans, at Fort Worth, Tex.

SHIPPED: 5-17-65, from Fort Smith, Ark., by Ark-Homa Farms Frozen Foods, Inc.

LABEL IN PART: (Can lid) "Hills O'Homa Brand Sliced Strawberries 4 Plus 1 Packed by Ark-Homa Farms Frozen Foods, Inc. Fort Smith, Ark."

LIBELED: 8-9-65, N. Dist. Tex.

CHARGE: 402(a)(3)—contained decomposed strawberries when shipped.

DISPOSITION: 9-24-65. Default—destruction.

MISCELLANEOUS FRUIT PRODUCTS

30365. Canned apricot concentrate. (F.D.C. No. 50559. S. No. 80-437 A.)

QUANTITY: 298 cases, each containing 12 6-lb. 14-oz. cans, at New York, N.Y.

SHIPPED: 7-6-64, from San Francisco, Calif.

RESULTS OF INVESTIGATION: Examination showed that the article was undergoing progressive decomposition.

LIBELED: 9-28-64, S. Dist. N.Y.

CHARGE: 402(a)(3)—contained decomposed apricot concentrate while held for sale.

DISPOSITION: 1-19-65. Consent—destruction.

30366. Red currant concentrate. (F.D.C. No. 50827. S. No. 79-662 A.)

QUANTITY: 44 1-gal. cans at Brooklyn, N.Y.

SHIPPED: 12-27-63, from Malden, Mass.

LIBELED: 11-23-64, E. Dist. N.Y.

CHARGE: 402(b)(2)—while held for sale, added soluble solids other than red currant concentrate had been substituted in part for the article; 402(b)(4)—soluble solids other than red currant concentrate had been added to the article so as to make it appear better than it was; and 403(a)—the label statement “Red Currant Concentrate 65° Brix,” was false and misleading as applied to a product containing added soluble solids.

DISPOSITION: 1-15-65. Default—destruction.

30367. Fruit sirups, jellies, and preserves. (F.D.C. No. 50889. S. Nos. 65-484/6 A, 65-490 A, 65-492/3 A, 65-495 A.)

QUANTITY: 69 ctns., each containing 12 btls. of blackberry fresh fruit sirup, 42 ctns., each containing 12 btls. of red raspberry fresh fruit sirup, 23 ctns., each containing 12 btls. of wild Canadian blueberry fresh fruit sirup, 21 ctns., each containing 12 jars of mint jelly, 44 ctns., each containing 12 jars of dietetic red raspberry preserves, 22 ctns., each containing 12 jars of dietetic wild Canadian blueberry preserves, and 121 ctns., each containing 12 jars of strawberry preserves, at Los Angeles, Calif.

SHIPPED: Between 4-11-63 and 11-16-64, from Portland, Oreg., by the Dickinson Family.

LABEL IN PART: (Btls.) “Dickinson’s Custom Made Wild Coast Blackberry Fresh Fruit Syrup * * * 12 Fl. Ozs. Net Weight 1 Lb.,” “Dickinson’s Custom Made Red Raspberry Fresh Fruit Syrup * * * 12 Fl. Ozs. Net Weight 1 Lb.” and “Dickinson’s Custom Made Wild Canadian Blueberry Fresh Fruit Syrup * * * 12 Fl. Ozs. Net Weight 1 Lb.,” (jars) “Dickinson’s Custom Made Mint Jelly * * * Net Weight 12 Ounces,” “Dickinson’s Custom Made Dietetic Red Raspberry Preserves Net Weight 9½ Ozs.,” “Dickinson’s Custom Made Dietetic Wild Canadian Blueberry Preserves Net Weight 9½ Ozs.” and “Dickinson’s Custom Made Fancy Marshall Strawberry Preserves Net Wt. 12 Ounces”; and (btls. and jars) “The Dickinson Family * * * Portland 1, Oreg.”

RESULTS OF INVESTIGATION: Examination showed that the articles were short weight. Blackberry fruit sirup was approximately 5.6 percent, red raspberry fruit sirup was approximately 4.5 percent, blueberry fruit sirup was approximately 6 percent, mint jelly was approximately 2.1 percent, red raspberry preserves was approximately 3.4 percent, blueberry preserves was approximately 2.7 percent, and strawberry preserves was approximately 1.3 percent short weight.

LIBELED: 12-23-64, S. Dist. Calif.

CHARGE: 403(e)(2)—when shipped, the articles failed to bear a label containing an accurate statement of the quantity of the contents since the label statements (blackberry fruit sirup) “Net Weight 1 Lb.,” (red raspberry fruit sirup) “Net Weight 1 Lb.,” (blueberry fruit sirup) “Net Weight 1 Lb.,” (mint jelly) “Net Weight 12 Ounces,” (red raspberry preserves) “Net Weight 9½ Ozs.,” (blueberry preserves) “Net Weight 9½ Ozs.,” and (strawberry preserves) “Net Wt. 12 Ounces” were inaccurate.

DISPOSITION: 1-28-65. Consent—claimed by the Dickinson Co., Portland, Oreg., for relabeling.

VEGETABLES AND VEGETABLE PRODUCTS*

30368. Sweet pickled peppers. (F.D.C. No. 50783. S. Nos. 13-214 A, 13-216 A, 14-372 A, 14-374 A, 14-376 A.)

INFORMATION FILED: 4-2-65, Dist. Mass., against Star Pickling Corp., Swansea, Mass., and Americo Gonsalves, treasurer.

SHIPPED: Between 3-11-64 and 4-23-64, from Swansea, Mass., to Westerly, Cranston, Providence, and North Providence, R.I.

LABEL IN PART: (Some btls.; other btls. were unlabeled) "Star Brand Contents 1 Quart Sliced Sweet Peppers Packed by Star Pickling Corp., Swansea, Mass."

CHARGE: 402(a)(3)—contained insect larvae, insect eggs, and insect parts when shipped.

PLEA: Guilty.

DISPOSITION: 6-28-65. Corporation—\$1,500 fine; individual—\$500 fine.

30369. Dried Great Northern beans and pinto beans. (F.D.C. No. 51025. S. Nos. 96-594/5 A, 98-426/7, A, 98-448/9 A.)

INFORMATION FILED: 5-19-65, N. Dist. Calif., against Valley Bean Warehouse, Inc., and Anthony P. Gonzales, foreman, Stockton, Calif.

ALLEGED VIOLATIONS: Between 4-7-64 and 7-17-64, while quantities of Great Northern beans and pinto beans were being held for sale after shipment in interstate commerce, the defendants caused the articles to be held in a building accessible to rodents and caused the articles to be exposed to contamination by rodents, which acts resulted in the articles being adulterated.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

PLEA: Guilty by Valley Bean Warehouse, Inc., to 4 counts; by individual to 2 counts.

DISPOSITION: 9-10-65. Corporation—\$500 fine; individual—\$500 fine, and probation for 2 years.

30370. Canned cut green beans. (F.D.C. No. 51164. S. No. 24-322 B.)

QUANTITY: 3 cases of 24 15½-oz. cans each, at Siloam Springs, Ark.

SHIPPED: 2-23-65, from Siloam Springs, Ark., to Memphis, Tenn., by Allen Canning Co., and returned on 3-8-65.

LABEL IN PART: (Can) "Deck's Cut Green Beans * * * Distributed by Deck Sales Agency Springfield, Mo." (Cans coded "ACXA3/D18W3".)

LIBELED: 4-13-65, W. Dist. Ark.

CHARGE: 402(a)(3)—when shipped, contained decomposed beans; and 403(h)(1)—the quality of the article fell below the standard of quality for canned green beans since there were more than 8 percent by count of blemished units in the article, and its label failed to bear, in such manner and form as such regulations specify, a statement that it fell below such standard.

DISPOSITION: 6-21-65. Consent—destruction.

30371. Dried pinto beans. (F.D.C. No. 51439. S. No. 20-625 B.)

QUANTITY: 255 100-lb. bags, at Fresno, Calif., in possession of Lawrence Warehouse Co.

*See also No. 30312.

SHIPPED: 1-23-65, from Buhl, Idaho.

LIBELED: 6-22-65, S. Dist. Calif.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 8-25-65. Consent—claimed by Lawrence Warehouse Co., San Francisco, Calif. Segregated; 1,400 lbs. converted to animal feed.

30372. Soybeans. (F.D.C. No. 51448. S. No. 12-100 B.)

QUANTITY: 28 100-lb. bags at Salt Lake City, Utah, in possession of Watson Warehouse & Storage Co.

SHIPPED: 2-1-65, from Stuttgart, Ark.

LIBELED: 6-30-65, Dist. Utah.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 9-27-65. Default—destruction.

30373. Green split peas and dried pinto beans. (F.D.C. No. 51150. S. Nos. 19-815/16 B.)

QUANTITY: 178 100-lb. bags of green split peas and 211 100-lb. bags of pinto beans, at Turlock, Calif., in possession of Roy M. Day Co.

SHIPPED: 9-29-64 and 8-22-64, from Murtaugh, Idaho, and Spokane, Wash.

LIBELED: 3-19-65, N. Dist. Calif.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 4-27-65. Consent—claimed by Roy M. Day Co. Segregated; 631 lbs. of peas and 2,059 lbs. of beans converted into animal feed.

30374. Dried whole green peas. (F.D.C. No. 51455. S. No. 37-942 B.)

QUANTITY: 54 100-lb. bags, at San Juan, P.R., in possession of B. Sorrentini & Co., Inc.

SHIPPED: 11-3-64, from San Francisco, Calif.

LIBELED: 8-23-65, Dist. P.R.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 10-8-65. Default—destruction.

30375. Prepared chilies and green Spanish tomato. (F.D.C. No. 50981. S. Nos. 27-736/7 A, 28-267 A.)

QUANTITY: 128 cases, 12 jars each, of prepared chilies, and 44 cases, 12 jars each, of green Spanish tomato, at Chicago, Ill.

SHIPPED: Between 4-21-64 and 9-17-64, from Rosemead, Calif., by La Victoria Foods, Inc.

LABEL IN PART: (Jar) "La Victoria Brand * * * Jalapenos en Escabeche (Prepared Chilies) Contents 12 Fl. Oz. * * * [or "Tomatillo Salsa Green Spanish Tomato Net Contents 8 Fl. Ozs.]" Packed by La Victoria Foods, Inc."

LIBELED: 1-25-65, N. Dist. Ill.

CHARGE: Prepared chilies, 402(a)(3)—contained insects, fly eggs, and rodent hairs; and 402(a)(4)—prepared and packed under insanitary conditions.

Green Spanish tomato, 402(e)(2)—when shipped, the article failed to bear a label containing an accurate statement of the quantity of contents (the article was short weight).

DISPOSITION: 3-15-65. Default—destruction.

NUTS AND NUT PRODUCTS

30376. Unshelled pecans and shelled pecans. (F.D.C. No. 50464. S. Nos. 19-234 X, 72-630 X.)

INFORMATION FILED: 11-4-64, W. Dist. Tex., against D. McCrea & Son, Inc., Yancey, Tex., Daniel M. McCrea, president, and Auda V. McCrea, vice president.

ALLEGED VIOLATION: Between 12-5-63 and 12-10-63, while quantities of unshelled pecans were being held for sale after shipment in interstate commerce, the defendants caused unshelled pecans to be placed in a building that was accessible to rodents and to be exposed to contamination by rodents, which act resulted in such pecans being adulterated.

Between 11-20-63 and 11-26-63, shelled pecans were shipped from Yancey, Tex., to Denver, Colo.

LABEL IN PART: (Ctns. of shelled pecans) "30 Lbs. Net Large Pieces Fiesta Brand Fancy Shelled Pecans Packed by D. McCrea & Son, Inc. Yancey, Texas."

CHARGE: 402(a)(3)—the unshelled pecans contained rodent urine and the shelled pecans contained *E. coli*; and 402(a)(4)—the unshelled pecans were held, and the shelled pecans were prepared and packed, under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 11-24-64. Corporation—\$500 fine; each individual—\$250 fine.

30377. Unshelled pecans. (F.D.C. No. 50768. S. No. 93-446 A.)

QUANTITY: 16 bales of 24 bags each, each bag containing approximately 2 lbs., at East Peoria, Ill.

SHIPPED: 10-27-64, from Dothan, Ala.

LABEL IN PART: (Bag) "Fresh Net Weight or Count Unit Price Total Price."

RESULTS OF INVESTIGATION: The article was shipped in bulk, from Dothan, Ala., to Paul Dooley, West Frankfort, Ill., who repacked the article into the above containers and reshipped it to East Peoria, Ill.

LIBELED: 12-7-64, S. Dist. Ill.

CHARGE: 402(a)(3)—while held for sale, the article contained rancid, moldy nuts, and empty shells; and 403(e)—the article failed to bear a label containing (1) the name and address of the packer or distributor, and (2) a statement of the quantity of the contents.

DISPOSITION: 1-13-65. Default—destruction.

30378. Shelled pecans. (F.D.C. No. 51655. S. No. 120-593 B.)

QUANTITY: 1,384 30-lb. cases, at Jersey City, N.J.

SHIPPED: 6-18-65 and 8-3-65, from San Antonio, Tex., to Woodside, N.Y., and subsequently delivered to Jersey City, N.J.

RESULTS OF INVESTIGATION: The article was involved in a fire at Woodside, N.Y., on 8-16-65, before delivery to Jersey City, N.J.

LIBELED: 9-8-65, Dist. N.J.

CHARGE: 402(a) (3)—while held for sale, the article was unfit for food by reason of having a smoky taste and odor.

DISPOSITION: 10-13-65. Default—destruction.

30379. Shelled pecans. (F.D.C. No. 51147. S. Nos. 3-385 B, 3-389 B.)

QUANTITY: 5 cases, each containing 10 5-lb. boxes, at Evansville, Ind.

SHIPPED: 12-29-64 and 1-20-65, from Hickman, Ky., by Roper Pecan Co.

LABEL IN PART: (Box) "Kentucky Kernel * * * Medium Pieces Pecans Packed by Roper Pecan Company, Hickman, Kentucky."

LIBELED: 3-25-65, S. Dist. Ind.

CHARGE: 402(a) (3)—contained *E. coli* when shipped.

DISPOSITION: 6-4-65. Default—destruction.

30380. Shelled toasted almonds and shelled walnuts. (F.D.C. No. 50954. S. Nos. 49-661/2 B.)

QUANTITY: 6 35-lb. ctns. of shelled toasted almonds, and 3 30-lb ctns. of shelled walnuts, at Syracuse, N.Y.

SHIPPED: 12-29-64 and 10-26-64, from Pittsburgh, Pa., by Assorted Nutmeats Co.

LABEL IN PART: (Ctns.) "Walnut Halves & Pieces [or "Chopped Toasted Almonds"] * * * Quality Processed Nutmeats Prepared by Assorted Nutmeats Co., Pittsburgh 24, Pa."

LIBELED: 2-18-65, N. Dist. N.Y.

CHARGE: 402(a) (3)—contained insect fragments and rodent hairs; and 402 (a) (4)—prepared and packed under insanitary conditions.

DISPOSITION: 2-26-65. Consent—destruction.

30381. Shelled brazil nuts. (F.D.C. No. 51169. S. No. 12-037 B.)

QUANTITY: 9 25-lb. cases at Salt Lake City, Utah.

SHIPPED: 3-23-65, from Los Angeles, Calif., by Granton Nut Co.

LABEL IN PART: (Case) "Sliced Brazil Nuts * * * Packed by Granton Nut Co., Los Angeles, California."

LIBELED: 4-15-65, Dist. Utah.

CHARGE: 402(a) (3)—contained insects and insect fragments when shipped.

DISPOSITION: 6-21-65. Default—delivered to a public institution for use as animal feed.

30382. Shelled brazil nuts. (F.D.C. No. 51170. S. No. 16-105 B.)

QUANTITY: 7 25-lb. ctns. at Los Angeles, Calif.

SHIPPED: 1-21-65, from New York, N.Y., by J. F. Braun & Sons, Inc.

LABEL IN PART: (Ctn.) "Bakers and Confectioners Supply Co. Sliced Brazil Nuts * * * Los Angeles, Calif."

RESULTS OF INVESTIGATION: The article had been shipped in bulk lots from New York to Los Angeles and delivered to the Granton Nut Co., Los Angeles, Calif., who sliced and repacked the article into the cartons described above.

LIBELED: 4-20-65, S. Dist. Calif.

CHARGE: 402(a) (3)—contained insects and insect fragments when shipped and while held for sale.

DISPOSITION: 5-12-65. Default—destruction.

30383. Shelled cashews. (F.D.C. No. 50749. S. No. 65-286 A.)

QUANTITY: 177 cans, approximately half of which were in 2-can cases, each can containing approximately 25 lbs., at Los Angeles, Calif.

SHIPPED: 7-21-64, from outside the United States.

LIBELED: 11-24-64, S. Dist. Calif.

CHARGE: 402(a) (3)—contained insects while held for sale.

DISPOSITION: 12-30-64. Consent—claimed by Westco Products Co., Los Angeles, Calif., and destroyed.

30384. Shelled cashews. (F.D.C. No. 50926. S. No. 65-922 A.)

QUANTITY: 491 ctns., each containing 2 25-lb. cans, at Los Angeles, Calif.

SHIPPED: On an unknown date, from India.

LIBELED: 1-20-65, S. Dist. Calif.

CHARGE: 402(a) (3)—contained insects while held for sale.

DISPOSITION: 3-11-65. Consent—claimed by J. F. Braun & Sons, Inc., New York, N.Y., and reconditioned.

30385. Chestnuts. (F.D.C. No. 51000. S. Nos. 45-962/4 B.)

QUANTITY: 22 10-lb. cases, 25 55-lb. bags and 14 cases, each containing 24 1-lb. ctns., at Chicago, Ill., in possession of August Battaglia Co., Inc.

SHIPPED: Between 12-2-64 and 12-12-64, from New York, N.Y.

LABEL IN PART: (Case) "Imported Italian Chestnuts Packed for A. Battaglia Co.," (ctn.) "Extra Fancy Imported Italian Chestnuts * * * Packed For August Battaglia Co. Inc."

RESULTS OF INVESTIGATION: The article had been shipped in bulk lots and re-packed in part by the dealer into the 10-lb. cases and 1-lb. ctns. described above.

LIBELED: 2-2-65, N. Dist. Ill.

CHARGE: 402(a) (3)—contained insects and moldy chestnuts while held for sale.

DISPOSITION: 5-17-65. Default—destruction.

30386. Granulated peanuts. (F.D.C. No. 51283. S. No. 34-361 B.)

QUANTITY: 13 35-lb. ctns. at East Lansing, Mich.

SHIPPED: 9-23-64 and 1-12-65, from Pittsburgh, Pa., by the Assorted Nutmeats Co.

LABEL IN PART: (Ctn.) "Granulated Peanuts * * * Prepared by The Assorted Nutmeats Co. Pittsburgh 24, Pa. * * * Roasted Nuts."

LIBELED: 4-26-65, W. Dist. Mich.

CHARGE: 402(a) (3)—contained insect fragments, rodent hairs, and rodent excreta pellets; and 402(a) (4)—prepared and packed under insanitary conditions.

DISPOSITION: 5-14-65. Default—released to a public institution for use as animal feed.

30387. Shelled peanuts. (F.D.C. No. 51165. S. Nos. 27-840 B, 28-221 B.)

QUANTITY: 45 unlabeled bags of raw shelled peanuts, at Minneapolis, Minn., in possession of Martin Nut Co.

SHIPPED: On unknown dates, from outside the State of Minnesota.

LIBELED: 4-15-65, Dist. Minn.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 6-1-65. Default—destruction.

30388. Shelled peanuts. (F.D.C. No. 51386. S. No. 120-981 B.)

QUANTITY: 280 bags, each containing approximately 125 lbs., at New York, N.Y.

SHIPPED: 4-7-65, from Fitzgerald, Ga., by Dixie Peanut Co.

LABEL IN PART: (Tag on bag) "Agricultural Marketing Service Georgia."

LIBELED: 6-3-65, S. Dist. N.Y.

CHARGE: 402(a)(3)—when shipped, contained insect larvae and insect fragments; and 402(a)(4)—prepared, packed and held under insanitary conditions.

DISPOSITION: 7-16-65. Consent—claimed by A. L. Bazzini Co., Inc., New York, N.Y. Reconditioned; 52 lbs. denatured.

30389. Shelled Spanish peanuts. (F.D.C. No. 50969. S. No. 89-909 A.)

QUANTITY: 210 124-lb. bags at West Reading, Pa.

SHIPPED: 11-20-64, from Cordele, Ga., by Gold Kist Peanut Growers.

LABEL IN PART: (Bag) "Number One Shelled Spanish Peanuts Packed by Gold Kist Peanut Growers Division of Cotton Producers Association Cordele, Georgia."

LIBELED: 12-31-64, E. Dist. Pa.

CHARGE: 402(a)(3)—contained insects and insect fragments; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 1-21-65. Consent—claimed by Gold Kist Peanut Growers, a division of Cotton Producers Association, and reconditioned.

30390. Shelled Spanish peanuts. (F.D.C. No. 50731. S. No. 122-590 A.)

QUANTITY: 223 100-lb. bags at Willmar, Minn.

SHIPPED: 8-12-64, from De Leon, Tex.

LIBELED: 11-9-64, Dist. Minn.

CHARGE: 402(a)(3)—while held for sale, contained live insects, insect larvae, insect webbing, and insect excreta.

DISPOSITION: 2-1-65. Consent—claimed by Willmar Cookie Co., Inc., Willmar, Minn. Segregated; 330 lbs. destroyed.

30391. Shelled Spanish peanuts. (F.D.C. No. 50929. S. No. 29-901 B.)

QUANTITY: 32 115-lb. bags at Minneapolis, Minn.

SHIPPED: 9-18-64, from Gorman, Tex.

LIBELED: 1-21-65, Dist. Minn.

CHARGE: 402(a)(3)—contained insects while held for sale.

DISPOSITION: 3-1-65. Consent—claimed by Brechet & Richter Co., Minneapolis, Minn., and reconditioned.

30392. Shelled walnuts. (F.D.C. No. 50311. S. No. 25-426 A.)

QUANTITY: 59 30-lb. ctns. at Chicago, Ill.

SHIPPED: 4-1-64, from Eugene, Oreg., by L. N. Miller Dehydrator Co.

LABEL IN PART: (Ctn.) "M. Nuggett Newberg Brand Oregon Walnut Meats, Packed by Fred Herring Nut Sheller Newberg, Oregon."

LIBELED: 6-26-64, N. Dist. Ill.

CHARGE: 402(a)(3)—contained *E. coli* when shipped.

DISPOSITION: 2-16-65. Consent—destruction.

30393. Unshelled walnuts, almonds, pecans, brazil nuts, and filberts. (F.D.C. No. 51378. S. Nos. 7-098/100 B, 7-102/5 B.)

QUANTITY: 74 100-lb. bags of walnuts, 25 100-lb. bags of almonds, 34 100-lb. bags of large pecans, 42 100-lb. bags of brazil nuts, 70 100-lb. bags of filberts, 20 50-lb. bags of extra large pecans and 40 50-lb. bags of polished pecans, at Topeka, Kans.

SHIPPED: Between 10-23-64 and 12-14-64, from Modesto, Calif., Dallas, Tex., and Dundee, Oreg.

RESULTS OF INVESTIGATION: Inspection of the Fleming Co., Inc., Topeka, Kans., showed that the articles had been stored under insanitary conditions in a rodent-infested warehouse; and thereafter the Fleming Co., Inc., had stored the articles elsewhere locally.

LIBELED: 5-12-65, Dist. Kans.

CHARGE: 402(a)(3)—all lots contained rodent urine and the 40-bag lot of pecans contained rodent hairs; and 402(a)(4)—all lots held under insanitary conditions.

DISPOSITION: 7-1-65. Consent—claimed by the Fleming Co., Inc. Segregated; 430 lbs. walnuts destroyed; 347 lbs. almonds destroyed; 592 lbs. large pecans destroyed; 305 lbs. extra large pecans destroyed; 30 lbs. brazil nuts destroyed; 1,219 lbs. filberts destroyed; and 444 lbs. polished pecans destroyed.

VITAMIN, MINERAL, AND OTHER PRODUCTS OF SPECIAL DIETARY SIGNIFICANCE*

30394. Facto-B vitamin tablets. (F.D.C. No. 49943. S. Nos. 49-873/4 A.)

QUANTITY: 13 21-tablet btls. and 164 100-tablet btls. at Detroit, Mich., in possession of Linblad's, Inc.

SHIPPED: 11-6-63 and 12-11-63, from Cedar Rapids, Iowa, by Professional Foods.

LABEL IN PART: (Btl.) "Facto-B Made from * * * and other Lipotropic Factors from food sources Each Tablet Contains * * * Liver-Stomach Concentrate (contains Intrinsic Factor) 130 Mg. * * * Iron (Ferrous Fumarate) 110 Mg. [MDR] 200% * * * Vitamin B₂ 7.5 Mg. [MDR] 375% * * * Folic Acid 0.15 Mg. * * * Directions Use one tablet per meal. * * * Distributed by Professional Foods, Cedar Rapids, Iowa."

RESULTS OF INVESTIGATION: The articles had been repacked by the dealer into bottles from bulk tablets shipped as above.

LIBELED: 3-27-64, E. Dist. Mich.

*See also Nos. 30350, 30367.

CHARGE: 402(a)(2)(C)—when shipped and while held for sale, the articles contained folic acid and intrinsic factor, food additives, which were unsafe within the meaning of 409, since they and their use or intended use were not in conformity with a regulation or exemption; and 403(a)—while held for sale, the label statements “Each Tablet Contains * * * Iron (Ferrous Fumarate) 110 mg. [MDR] 200% * * * Vitamin B₂ 7.5 mg. [MDR] 375%” were false and misleading, since the label statement that each tablet contained 110 mg. of Iron (Ferrous Fumarate) was inconsistent with the label statement that each tablet contained 200% of the minimum daily requirement for Iron (Ferrous Fumarate), and since the label statement that each tablet contained 7.5 mg. of Vitamin B₂ was inconsistent with the label statement that each tablet contained 375% of the minimum daily requirement for Vitamin B₂.

The article was alleged also to be misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices, No. 8187.

DISPOSITION: 5-14-64. Default—destruction.

30395. Vita Zest medicated premix. (F.D.C. No. 50105. S. Nos. 71-477 A, 71-480 A.)

QUANTITY: 10 5-lb. cans and 27 2½-lb. cans at Blooming Prairie, Minn.

SHIPPED: Between 1-30-64 and 3-16-64, from Wessington Springs, S. Dak., by Vita Zest Corp.

LABEL IN PART: (Can) “Vita Zest Oxytetracycline (Terramycin) 3.2 grams per pound * * * Manufactured by Vita Zest Corporation Wessington Springs South Dakota * * * Poultry Sick Chickens-Chronic respiratory disease (air sac), Blue comb (nonspecific enteritis), use 2 tablespoonsful to 1 gallon of drinking water for 4 days or mix 1 lb. of Vita Zest to 100 lbs. feed for 10 days * * * Swine For Bacterial enteritis (necro) (scours) use 2 tablespoonsful to 1 gallon of drinking water, slop or milk for 4 days, then 2 tablespoonsful to 8 gallons of water for 10 days. Use 1 lb. to 100 lbs. of feed for 10 days.”

LIBELED: 5-5-64, Dist. Minn.; libel amended 6-30-64.

CHARGE: 402(a)(2)(C)—when shipped, the article contained a food additive, oxytetracycline, which was unsafe within the meaning of 409, since it and its use or intended use were not in conformity with a regulation or exemption in that it failed to comply with regulations since the directions for use did not provide sufficient oxytetracycline levels for the treatment of chronic respiratory disease and blue comb in sick chickens.

The article was alleged also to be misbranded under the provisions of the law applicable to drugs as reported in notices of judgment on drugs and devices, No. 8199.

DISPOSITION: 7-24-64. Default—destruction.

30396. Allocaps capsulets. (F.D.C. No. 51419. S. No. 16-307 B.)

QUANTITY: 37 100-capsule btls., and 52 250-capsule btls., at Los Angeles, Calif., in possession of Vitamin Quota.

SHIPPED: 1-20-65, from New York, N.Y.

LABEL IN PART: (Btl.) “Allocaps Vitamins in each capsulet—Folic Acid 0.34 milligrams—average adult dose: One capsulet daily—Distributed by Vitamin Quota, New York-Los Angeles.”

RESULTS OF INVESTIGATION: The dealer repacked the article into the bottles described above. Analysis showed the article contained less than 30 percent of the declared amount of folic acid.

LIBELED: 5-25-65, S. Dist. Calif.

CHARGE: 402(b)(1)—while held for sale, the valuable constituent, folic acid, had been in whole or in part omitted or abstracted from the article; and 403(a)—the label statement "Folic Acid 0.34 Milligrams" was false and misleading.

DISPOSITION: 6-29-65. Consent—claimed by Vitamin Quota, Los Angeles, Calif., repacked and relabeled.

30397. Vitamin drops. (F.D.C. No. 50156. S. No. 13-309 A.)

QUANTITY: 120 50-cc. btls. at Stamford, Conn.

SHIPPED: 9-23-63 and 10-4-63, from St. Louis, Mo.

RESULTS OF INVESTIGATION: Analysis showed that the article contained approximately 75 percent of the declared amount of vitamin B₁.

LIBELED: On or about 6-17-64, Dist. Conn.

CHARGE: 402(b)(1)—the valuable constituent, vitamin B₁, had been in part omitted or abstracted from the article; and 403(a)—the label statement "Each 0.6 cc. dose contains * * * Vitamin B₁ * * * 1 mg." was false and misleading.

DISPOSITION: 1-12-65. Default—destruction.

30398. Diet-All. (F.D.C. No. 51162. S. Nos. 34-776/79 B.)

QUANTITY: 8 25-lb. ctns., at Apple Creek, Ohio.

SHIPPED: 2-16-65, from Pompano Beach, Fla., by the Mainland Corp.

LABEL IN PART: (Ctn.) "Mainland Concentrated Food Formula Diet-All A Combination of highly nutritious ingredients * * * Flavor—The Mainland Corporation New York, New York—Pompano Beach, Florida."

LIBELED: 4-8-65, N. Dist. Ohio.

CHARGE: 402(a)(1)—when shipped, the article contained an added poisonous and deleterious substance, Salmonella micro-organisms, which may have rendered it injurious to health.

DISPOSITION: 5-4-65. Default—destruction.

30399. Diet-All. (F.D.C. No. 51143. S. No. 49-270 B.)

QUANTITY: 12 25-lb. boxes at Perrysburg, N.Y.

SHIPPED: 1-5-65, from Pompano Beach, Fla., by the Mainland Corp.

LABEL IN PART: (Box) "The New Improved Mainland Concentrated Food Formula Diet-All—Directions * * * The Mainland Corporation—Pompano Beach, Florida."

LIBELED: 3-10-65, W. Dist. N.Y.

CHARGE: 402(a)(1)—when shipped, the article contained an added poisonous and deleterious substance, Salmonella micro-organisms, which may have rendered it injurious to health.

DISPOSITION: 5-21-65. Default—destruction.

30400. F-M vitamin capsules. (F.D.C. No. 51126. S. No. 22-979 B.)

QUANTITY: 12 cases, each containing 12 100-capsule btls., at Houston, Tex.

SHIPPED: 11-17-64 and 1-19-65, from El Segundo, Calif., by Rabin-Winters Corp.

LABEL IN PART: (Btl.) "F-M Vitamins * * * Therapeutic Geriatric Formula Distributed by F-M Pharmacy San Diego 11, California Each Capsule Contains * * * Menadione (K) 1 mg. * * * Average dose as a dietary supplement: One capsule daily."

LIBELED: 3-25-65, S. Dist. Tex.

CHARGE: 402(a)(2)(C)—when shipped, the article contained menadione, a food additive which was unsafe within the meaning of 409, since it and its use and intended use were not in conformity with a regulation or exemption.

DISPOSITION: 5-5-65. Default—destruction.

INDEX TO NOTICES OF JUDGMENT F.N.J. NOS. 30301 TO 30400

PRODUCTS

	N.J. No.		N.J. No.
Allocaps capsules-----	30396	Egg(s), frozen-----	30337-30345
Almonds, shelled, toasted-----	30380	whites, dried-----	30346
unshelled-----	30393	frozen-----	30344, 30347
Apricot concentrate, canned-----	30365	F-M vitamin capsules-----	30400
Beans, Great Northern, dried-----	30369	Facto-B vitamin tablets-----	30394
green, cut, canned-----	30370	Feeds and grains-----	30348, 30349
pinto, dried-----	30312,	Filberts, unshelled-----	30393
	30369, 30371, 30373	Fish and shellfish-----	30350-30359
Beet pulp, sugar, dried---	30348, 30349	sticks, frozen-----	30355
Blackberry fresh fruit sirup---	30367	Flounder fillets, frozen-----	30354
Blueberry fresh fruit sirup-----	30367	Flour-----	30301-30306, 30318
preserves (dietetic)-----	30367	pie-----	30318
Bonita fish, canned-----	30357	self-rising-----	30304, 30305
Brazil nuts, shelled-----	30381, 30382	Food additive violations-----	30348,
unshelled-----	30393		30349, 30395, 30400
Bread, white, enriched-----	30303	Fruits and vegetables-----	30360-30375
rye-----	30303	fruit, dried-----	30360
Butter-----	30334	fresh-----	30361
Cake mix-----	30318	frozen-----	30362, 30363
Candy. See Confectionery.		miscellaneous fruit products_	30365-
Cane sirup-----	30332		30367
Carmel corn-----	30327	vegetables and vegetable prod-	
Cashews, shelled-----	30383, 30384	ucts -----	30312, 30368-30375
Cereals and cereal products---	30301-	Great Northern beans, dried---	30369
	30319	Honeydew melons-----	30361
Cheese-----	30335, 30336	Horehound kisses-----	30321
Chestnuts-----	30385	Ice cream toppings-----	30333
Chilies, prepared-----	30375	Karmalettes (candy)-----	30327
Coconut candy-----	30321	Macaroni and noodle products--	30307-
Codfish pieces, frozen-----	30355		30310
Confectionery-----	30320-30327	Marshmallows-----	30326
Cornmeal-----	30318	Melons, honeydew-----	30361
Crabmeat, frozen-----	30358	Mint candy-----	30321
Currant, red, concentrate-----	30366	jelly-----	30367
Dairy products-----	30334-30336	Mix, cake-----	30318
Diet-All-----	30398, 30399	Donut-----	30319
Donut mix-----	30319	Molasses sirup-----	30332
		sorghum-----	30331

	N.J. No.		N.J. No.
Noodles. <i>See</i> Macaroni and noodle products.		Sirup(s), cane-----	30332
Nuts and nut products----	30376-30393	fruit -----	30367
Peanut(s) candy-----	30321	ice cream-----	30333
granulated -----	30386	molasses -----	30332
shelled -----	30387, 30388	sorghum-----	30328-30330
Spanish, shelled-----	30389-30391	Snapper, red, frozen-----	30351
Peas, green-----	30373	Sorghum molasses-----	30331
dried -----	30374	sirup-----	30328-30330
Pecans, shelled----	30376, 30378, 30379	Sour cherry kisses-----	30321
unshelled-----	30376, 30377, 30393	lemon kisses-----	30321
Peppers, sweet, pickled-----	30368	Soybeans -----	30372
Perch fillets, frozen-----	30352, 30353	Spanish peanuts, shelled--	30389-30391
Pesticide chemical violation----	30361	tomato, green-----	30375
Pinto beans, dried-----	30312,	Strawberries, frozen----	30362-30364
30369, 30371, 30373		Strawberry preserves-----	30367
Popcorn, cheese-dipped-----	30327	Sugar beet pulp, dried----	30348, 30349
unpopped -----	30312	Tomato, Spanish, green-----	30375
Raisins -----	30360	Toppings, ice cream-----	30333
Raspberry, red, fresh fruit sirup-	30367	Tuna, canned-----	30350
preserves (dietetic)-----	30367	Vegetables. <i>See</i> Vegetables and vegetable products.	
Rice -----	30311	Vitamin, mineral, and other products of special dietary significance-----	30350, 30367, 30394-30400
Salmon, frozen-----	30356	Vita Zest medicated premix----	30395
steaks, frozen-----	30355	Walnuts, shelled-----	30380, 30392
Scallops, frozen-----	30355	unshelled -----	30393
Self-rising flour-----	30304, 30305	Wheat-----	30313-30317
Shellfish. <i>See</i> Fish and shellfish.			
Shrimp, breaded, frozen-----	30359		

SHIPPERS, MANUFACTURERS, AND DISTRIBUTORS

	N.J. No.		N.J. No.
Aldrich Milk Products, Inc.:		Assorted Nutmeats Co.:	
cheddar cheese-----	30335	granulated peanuts-----	30386
Allen Canning Co.:		shelled toasted almonds and	
canned cut green beans-----	30370	shelled walnuts-----	30380
Allied Bakers Supply, Inc.:		Atlantic (boat):	
cake mix, flour, pie flour, and		frozen perch fillets-----	30353
cornmeal -----	30318	Bakers & Confectioners Supply Co.:	
American Crystal Sugar Co.:		shelled brazil nuts-----	30382
dried sugar beet pulp---	30348, 30349	Ballas Egg Products Corp.:	
Anchor Sea Food Corp.:		frozen eggs-----	30339
frozen fish sticks, scallops,		Ballas Egg Solids, Inc.:	
salmon steaks, and codfish		frozen eggs-----	30339
pieces -----	30355	Barstow, W. T., Grain Co.:	
Anderson Grain Co.:		wheat -----	30315
wheat -----	30314	Battaglia, August, Co., Inc.:	
Ark-Homa Farms Frozen Foods,		chestnuts -----	30385
Inc.:		Binder Grain Co.:	
frozen strawberries-----	30364	wheat -----	30316

	N.J. No.		N.J. No.
Boats. <i>See</i> Atlantic and Salvatore & Grace.		F-M Pharmacy :	
Braun, J. F., & Sons, Inc. :		F-M vitamin capsules-----	30400
shelled brazil nuts-----	30382	Farmers Union Cooperative Creamery Co. :	
Breskovich, R. J. :		butter -----	30334
canned tuna-----	30350	Farmers Union Cooperative Marketing Association :	
Burns, John, Co., Inc. :		wheat -----	30317
frozen flounder fillets-----	30354	Fireside Marshmallow, Inc., subsidiary of Dextra Corp. :	
C & C Candy Co. :		marshmallows -----	30326
candy -----	30320	Fleishman, J., & Co. :	
Carlisle Poultry & Egg Association, Inc. :		frozen eggs-----	30345
frozen eggs-----	30342, 30343	Fleishman & Co. :	
Ce De Candy, Inc. :		frozen egg whites-----	30347
candy wafers-----	30324, 30325	Food Div., Snow Crest Beverages, Inc. :	
Cheese Products Co., Inc. :		ice cream toppings and sirups_	30333
cheddar cheese-----	30335	Freeman, M. A. :	
Clark, D. L., Co. :		egg noodles-----	30309
candy bars-----	30323	Freeman Food Distributors :	
Cleveland, C. K. :		egg noodles-----	30309
candy -----	30320	Garza, Alfonso, Jr. :	
Comer Produce Co. :		unpopped popcorn and dried pinto beans-----	30312
honeydew melons-----	30361	Gee, Frank :	
Compania Pesquera De Coischco, S.A. :		egg noodles-----	30307
canned bonita fish-----	30357	Gem Fillet Co., Inc. :	
Consolidated Foods Corp. :		frozen flounder fillets-----	30354
canned tuna-----	30350	Giacchetto, Salvatore :	
Cotton Producers Association. <i>See</i> Gold Kist Peanut Growers.		flour -----	30302
Day, Roy M., Co. :		Gilbreath, N. M. :	
green split peas and dried pinto beans-----	30373	self-rising flour-----	30304
Deck Sales Agency :		Gold Kist Peanut Growers, Div. of Cotton Producers Association :	
canned cut green beans-----	30370	shelled Spanish peanuts-----	30389
Delight Certified Egg Farms, Inc. :		Gonsalves, Americo :	
frozen eggs and frozen egg whites -----	30344	sweet pickled peppers-----	30368
Delmonico Foods, Inc. :		Gonzales, A. P. :	
enriched egg noodles-----	30310	dried Great Northern beans and pinto beans-----	30369
Dextra Corp. <i>See</i> Fireside Marshmallow, Inc.		Granton Nut Co. :	
Dickinson Family :		shelled brazil nuts-----	30381
fruit sirups, jellies, and preserves -----	30367	Halibut Producer's Cooperative :	
Dixie Peanut Co. :		frozen crabmeat-----	30358
shelled peanuts-----	30388	Herring, Fred :	
Egelkrout Shellfish, Inc. :		shelled walnuts-----	30392
frozen crabmeat-----	30358	Huston, Tom, Peanut Co. :	
		candy -----	30320
		Imperial Seafoods Co., Inc. :	
		frozen perch fillets-----	30353

	N.J. No.		N.J. No.
Joseph, I. S., Co., Inc.:		Monmouth Beach Cold Storage	
dried sugar beet pulp--	30348, 30349	Co., Inc.:	
Kite, L. B.:		frozen salmon-----	30356
canned tuna-----	30350	Mountainside Butter & Egg Co.:	
Lansaw, L. W.:		frozen egg whites-----	30347
sorghum sirup-----	30328	Myrick, S. L.:	
La Victoria Foods, Inc.:		sorghum molasses-----	30331
prepared chilies and green		New Orleans Shrimp Co., Inc.:	
Spanish tomato-----	30375	frozen breaded shrimp-----	30359
Lawrence Warehouse Co.:		Old Mill Syrup Co.:	
dried pinto beans-----	30371	sorghum sirup-----	30330
Liberty Chocolate Co., Inc.:		Oneonta Wholesale Grocery Co.	
candy -----	30322	See Gilbreath, N. M.	
Linblad's, Inc.:		Pacific Reefer Fisheries, Inc.:	
Facto-B vitamin tablets-----	30394	canned tuna-----	30350
Louisiana Wholesale Distribu-		Pendleton, A. S., Co., Inc.:	
tors:		self-rising flour-----	30305
flour -----	30301	Pereira, A. J.:	
Luso-American Macaroni Manu-		egg noodles-----	30308
facturing Co., Inc.:		Phillips, H. S.:	
egg noodles-----	30308	molasses sirup and cane sirup-	30332
McClain, Roy:		Phillips Produce:	
sorghum sirup-----	30330	molasses sirup and cane sirup-	30332
McCrea, A. V.:		Pine Lane Poultry Farm, Inc.:	
unshelled pecans and shelled		frozen eggs-----	30340
pecans -----	30376	Professional Foods:	
McCrea, D. M.:		Facto-B vitamin tablets-----	30394
unshelled pecans and shelled		Progressive Fish Wharf, Inc.:	
pecans -----	30376	frozen perch fillets-----	30353
McCrea, D., & Sons, Inc.:		Rabin-Winters Corp.:	
unshelled pecans and shelled		F-M vitamin capsules-----	30400
pecans -----	30376	Rachins, Edward:	
Mainland Corp.:		ice cream toppings and sirups-	30333
Diet-All -----	30398, 30399	Red Oak Cheese Factory:	
Maize Industries:		cheddar cheese-----	30336
popped corn Karmalettes, car-		Robbins Bros. Wholesale Gro-	
mel corn, and cheese-dipped		cery:	
popcorn -----	30327	flour -----	30306
Marad, Raymond:		Roper Pecan Co.:	
cake mix, flour, pie flour, and		shelled pecans-----	30379
cornmeal -----	30318	Saldana & Garza, Inc.:	
Martin Nut Co.:		unpopped popcorn and dried	
shelled peanuts-----	30387	pinto beans-----	30312
Michigan Bean Co.:		Salvatore & Grace (boat):	
wheat -----	30313	frozen perch fillets-----	30352
Mid Central Fish Co.:		Schaub, G. W.:	
frozen flounder fillets-----	30354	cake mix, flour, pie flour, and	
Miller, L. N., Dehydrator Co.:		cornmeal -----	30318
shelled walnuts-----	30392	Shamrock Fisheries, Inc.:	
Moisha's:		frozen flounder fillets-----	30354
canned tuna-----	30350	Sloan, Raymond (Ray):	
		sorghum sirup-----	30329

	N.J. No.		N.J. No.
Snow Crest Beverages, Inc. <i>See</i>		Warisse, Nick, Baking Co., Inc. :	
Food Div.		flour, rye bread, and enriched	
Snow Crest Finer Foods, Inc. :		white bread-----	30303
ice cream toppings and sirups_	30333	Warren Baking Corp. :	
Sorrentini, B., & Co., Inc. :		flour -----	30302
dried whole green peas-----	30374	Watson Warehouse & Storage	
Southern Freezing & Preserving		Co. :	
Co. :		soybeans -----	30372
frozen strawberries-----	30363	Weaver Bros., Inc. :	
Star-Kist Foods, Inc. :		frozen eggs-----	30341
canned bonita fish-----	30357	Wes-Stan, Inc. :	
Star Pickling Corp. :		frozen flounder fillets-----	30354
sweet pickled peppers-----	30368	West Coast Fish Co., Inc. :	
Stroupe's Pure Honey Co. :		canned tuna-----	30350
sorghum molasses-----	30331	Winter Garden, Inc. :	
Tranin Egg Products Co. :		frozen strawberries-----	30363
dried egg whites-----	30346	Woody, L. L. :	
Tropical Grocery Co. :		candy, sour lemon kisses, coco-	
Donut mix-----	30319	nut and peanut candy, sour	
Valley Bean Warehouse, Inc. :		cherry kisses, mint candy,	
dried Great Northern beans		and horehound kisses-----	30321
and pinto beans-----	30369	Woody Candy Co. <i>See</i>	
Vitamin Quota :		Woody, L. L.	
Allocaps capsules-----	30396	World Noodle Co. <i>See</i>	
Vita Zest Corp. :		Gee, Frank.	
Vita Zest medicated premix---	30395		

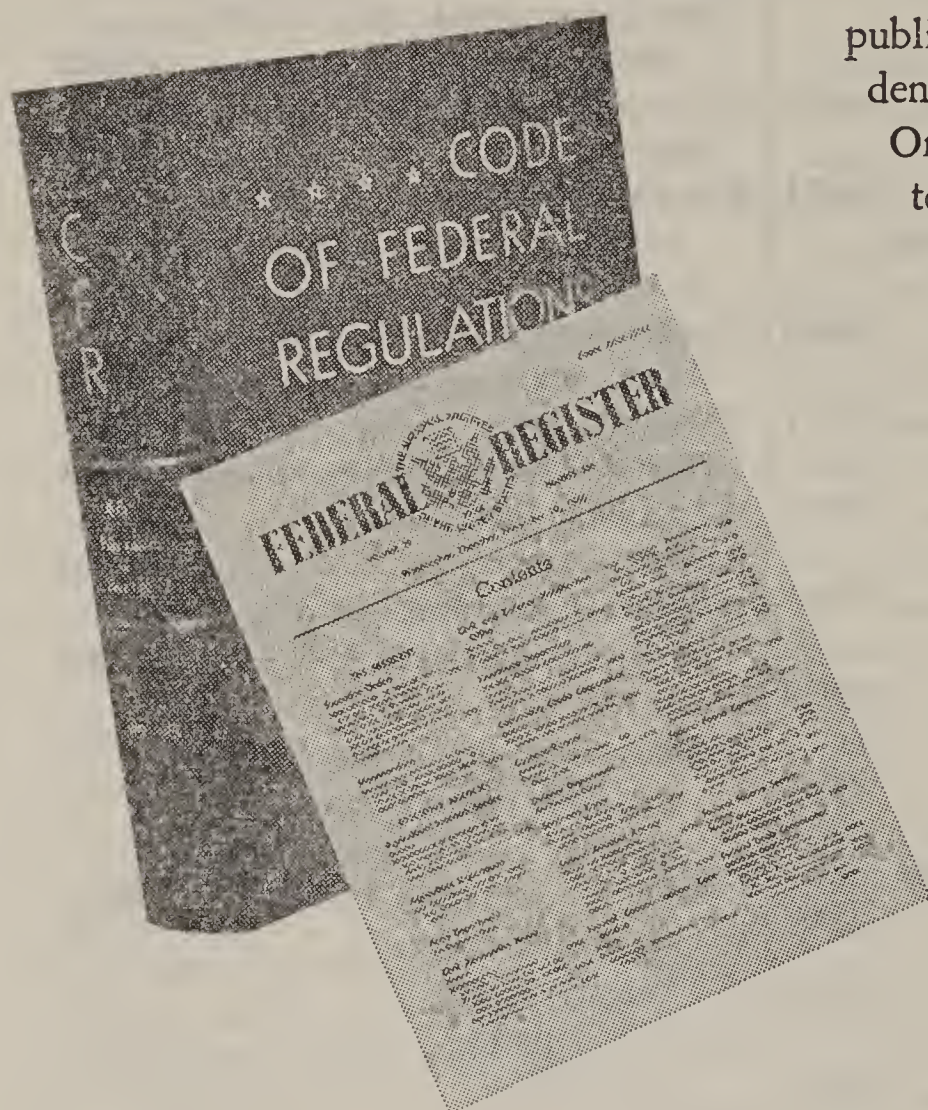
ERRATUM

F.N.J., F.D.C. 30101-30200

Page 479, 2d column, delete 1st "Halibut" listing ; insert following item :

Haddock fillets, frozen----- 30153-30155

The FEDERAL REGISTER . . .



publishes daily the full text of Presidential Proclamations, Executive Orders, and Reorganization Plans, together with Federal agency orders, regulations, notices, or similar documents having general applicability and legal effect.

The FEDERAL REGISTER is keyed to, and is a daily supplement to the *CODE OF FEDERAL REGULATIONS*. Sold by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C., 20402, the FEDERAL REGISTER is priced at \$15 a year; \$1.50 a month.

The *CODE OF FEDERAL REGULATIONS* is a *codification* of rules and regulations issued by the administrative agencies of the Federal Government. Regulatory material published in the *Federal Register* is keyed to the *Code of Federal Regulations* which is published under 50 titles, pursuant to section 11 of the Federal Register Act, as amended.

For **SAMPLE COPY** of the **FEDERAL REGISTER**, write to:
Director, Office of the Federal Register,
National Archives and Records Service,
Washington, D.C. 20408

32N7

U.S. Department of Health, Education, and Welfare

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD,
DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

30401-30500

FOODS

U. S. DEPT. OF AGRICULTURE
NATIONAL AGRICULTURAL LIBRARY

NOV 4 - 1966

CURRENT SERIAL RECORDS

The cases reported herewith were instituted in the United States district courts by United States attorneys, acting upon reports submitted by the Department of Health, Education, and Welfare. They involve foods which were alleged to be adulterated or misbranded within the meaning of the Act, when introduced into and while in interstate commerce, or while held for sale after shipment in interstate commerce. These cases involve (1) seizure proceedings in which decrees of condemnation were entered after default or consent; (2) criminal proceedings which were terminated upon pleas of guilty and nolo contendere, upon reversal by the court of appeals of the judgments of conviction in one case, and upon acquittal by the court of two defendants and conviction of one defendant in one case; and (3) injunction proceedings which involved the dismissal of the action without prejudice in one proceeding, and a consent decree of permanent injunction in a later proceeding. The seizure proceedings are civil actions taken against the *goods* alleged to be in violation, and the criminal and injunction proceedings are against the *firms* or *individuals* charged to be responsible for violations.

Published by direction of the Secretary of Health, Education, and Welfare.

JAMES L. GODDARD, *Commissioner of Food and Drugs.*

WASHINGTON, D.C. *September 2, 1966.*

CONTENTS

	Page		Page
Cereals and cereal products.....	557	Fruits and vegetables—Con.	
Cornmeal.....	557	Miscellaneous fruit products..	575
Flour.....	558	Vegetables and vegetable prod-	
Miscellaneous cereals and ce-		ucts.....	586
real products.....	561	Tomatoes and tomato prod-	
Dairy products.....	565	ucts.....	587
Butter.....	565	Spices, flavors, and seasoning	
Cheese.....	567	materials.....	590
Miscellaneous dairy products..	567	Vitamin, mineral, and other	
Eggs.....	568	products of special dietary	
Feeds and grains.....	572	significance.....	591
Fish and shellfish.....	573	Miscellaneous foods.....	593
Fruits and vegetables.....	575	Index.....	594
Canned fruit.....	575		

SECTIONS OF FEDERAL FOOD, DRUG, AND COSMETIC ACT INVOLVED IN ALLEGED VIOLATIONS REPORTED IN F.N.J. NOS. 30401-30500

Adulteration, Section 402(a) (1), the article contained a poisonous or deleterious substance which might render it injurious to health; Section 402(a) (2) (B), the article was a raw agricultural commodity and contained a pesticide chemical which was unsafe within the meaning of Section 408(a); Section 402(a) (2) (C), the article contained a food additive which was unsafe within the meaning of Section 409; Section 402(a) (3), the article consisted in whole or in part of a filthy, putrid, or decomposed substance, or it was otherwise unfit for food; Section 402(a) (4), the article had been prepared, packed, or held under insanitary conditions whereby it might have become contaminated with filth or might have been rendered injurious to health; Section 402(b) (1), a valuable constituent had been in whole or in part omitted or abstracted from the article; Section 402(b) (2), a substance had been substituted wholly or in part for the article; Section 402(b) (4), a substance had been added to the article or mixed or packed therewith so as to increase its bulk or weight, or reduce its quality or strength, or make it appear better or of greater value than it was; Section 408(a), a poisonous or deleterious pesticide chemical, or a pesticide chemical not generally recognized, among qualified experts, as safe for use, added to a raw agricultural commodity, was deemed to be unsafe because no tolerance or exemption from the requirement of a tolerance for such pesticide in or on the raw agricultural commodity had been prescribed by the Secretary of Health, Education, and Welfare, or because the quantity of the pesticide chemical in or on the raw agricultural commodity was not within the limits of a tolerance prescribed by the Secretary of Health, Education, and Welfare; Section 409, a food additive was deemed to be unsafe because the food additive and its use or intended use failed to conform to the terms of an effective exemption or because there was not in effect, or the food additive and its use or intended use failed to be in conformity with, a regulation prescribing conditions for safe use.

Misbranding, Section 403(a), the labeling of the article was false and misleading; Section 403(b), the article was offered for sale under the name of another food; Section 403(c), the article was an imitation of another food, and its label failed to bear in type of uniform size and prominence, the word "imitation" and, immediately thereafter, the name of the food imitated; Section 403(e), the article was in package form, and it failed to bear a label containing (1) the name and place of business of the manufacturer, packer, or distributor, and (2) an accurate statement of the quantity of the contents in terms of weight, measure or numerical count; Section 403(g) (1), the article purported to be or was represented as a food for which a definition and standard of identity had been prescribed by regulations and it failed to conform to such definition and standard; Section 403(h) (1), the article purported to be or was represented as a food for which a standard of quality had been prescribed by regulations, and its quality fell below such standard; Section 403(i) (2), the article was not subject to the provisions of Section 403(g) and the article was fabricated from two or more ingredients, and its label failed to bear the common or usual name of each such ingredient; Section 403(j), the article purported to be and was represented for special dietary uses, and its label failed to bear such information concerning its vitamin, mineral, and other dietary properties as the Secretary had determined to be, and by regulation prescribed as, necessary in order fully to inform purchasers as to its value for such uses; and Section 403(k), the article contained an artificial flavoring, or artificial coloring, and failed to bear labeling stating that fact.

CEREALS AND CEREAL PRODUCTS**CORNMEAL**

30401. Cornmeal. (F.D.C. No. 49142. S. Nos. 255/7 V, 66-931/3 V.)

INFORMATION FILED: 10-15-63, N. Dist. Fla., against H. G. Shores & Son, Inc., Horace H. Shores, president, and L. Mack Janes, manager, DeFuniak Springs, Fla.

SHIPPED: Between 11-26-62 and 3-4-63, from DeFuniak Springs, Fla., to Florala, Ala., Andalusia, Ala., and Opp, Ala.

LABEL IN PART: (Bag) "Enriched 24 OZ. [or 5 LBS.] NET WT. SIFTED MOTHER'S WHITE CORN MEAL [or CORN MEAL MIX] MANUFACTURED BY H. G. SHORES & SON DeFUNIACK SPRINGS, FLORIDA."

CHARGE: 402(a)(3)—contained insects, insect parts, rodent hair fragments, and rodent excreta pellet fragments; and 402(a)(4)—prepared, packed, and held under insanitary conditions.

PLEA: Not guilty.

DISPOSITION: The case came on for trial before the court and jury on 5-24-65. At the close of the Government's testimony the corporation changed its plea to guilty. In addition, a motion for acquittal of the individual defendants was submitted by the defendants' counsel and was granted by the court. On 6-25-65, the court sentenced the corporation to probation for 5 years.

30402. Cornmeal, baked corn products, and popped popcorn. (F.D.C. No. 50639. S. Nos. 24-185/7 A, 24-189/90 A, 24-467 A, 69-468/71 A.)

INFORMATION FILED: 12-15-64, N. Dist. Ill., against Maize Industries, a partnership, Earlville, Ill., and George Gavora, partner.

ALLEGED VIOLATION: Between 8-24-63 and 1-27-64, while quantities of cornmeal were being held for sale after shipment in interstate commerce, the defendants caused the article to be held in a building that was accessible to rodents, and to be exposed to contamination by rodents, which acts resulted in the article being adulterated.

Between 1-22-64 and 1-29-64, the defendants also caused the shipment from Illinois to Indiana and South Dakota of quantities of corn products and popcorn which were adulterated.

LABEL IN PART: (Bag) "Net Wt. 8 oz. Tasty Exploded Corn Baked Kor-Chees by Maize The Modern Snack Maize Industries Earlville, Illinois"; "Net wt. 8 oz. Cheese Dipped Pop-Ees Golden Nuggets From 'The Land O'Corn' Maize Industries Earlville, Illinois"; "Twin Pak Net Wt. 7 oz. New! Improved Kor-Niks The Corn Chips They're Baked! Delicious and Tender from 'The Land O'Corn' Maize Industries Earlville, Illinois"; "Net Wt. 9 oz. Twin Pack Rum 'n Toffee Karmalettes Made with Honey and Butter a tasty KORNFECTION from 'The Land O'Corn' Maize Industries Earlville, Illinois"; "Net Wt. 1 1/8 Oz. Tasty Exploded Corn Baked Kor-Chees by Maize The Modern Snack Maize Industries Earlville, Illinois"; "Net Wt. 1 1/8 Oz. Tasty Exploded Corn Baked Kor-Chees by Maize The Modern Snack Maize Industries Earlville, Ill."; and "Fresh Popped Kountry Korn Net Wt. 1 1/2 Oz. Maize Industries Earlville, Illinois."

CHARGE: 402(a)(3)—the cornmeal contained dead rodents, rodent excreta pellets, and rodent hairs, and the other products contained insects, insect fragments, and rodent hair fragments; and 402(a)(4)—the cornmeal was held, and the other products were prepared and packed under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 6-2-65. Partnership and individual fined \$2,000 jointly and individual also placed on probation for 1 year.

30403. Cornmeal. (F.D.C. No. 51860. S. Nos. 61-813/14 B.)

QUANTITY: 276 100-lb. bags at Baltimore, Md.

SHIPPED: 7-20-65, from Mount Vernon, Ind.

RESULTS OF INVESTIGATION: The article had been in a railroad car which was wrecked at Highland, Ohio. Thereafter, it was loaded into an insect- and rodent-infested railroad car supplied by the Baltimore & Ohio Railroad Co., and forwarded to the original consignee in Brooklyn, N.Y., where it was refused. The article was then diverted to Baltimore, Md., for sale at public auction.

LIBELED: 11-8-65, Dist. Md.

CHARGE: 402(a)(3)—while in transit and while held for sale, contained insects; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 12-9-65. Default—destruction.

30404. Supplement to Notice of Judgment No. 29703. (F.D.C. No. 50552. S. No. 10-932 A.)

The default decree of destruction entered on 9-23-64 was set aside, and the cornmeal was claimed by W. Fred Obrecht, t/a George F. Obrecht Co., Baltimore, Md. On 3-1-65, a consent decree of condemnation was entered and the article was released under bond for denaturing for use as animal feed.

30405. Self-rising cornmeal and self-rising flour. (F.D.C. No. 51494. S. Nos. 62-182 B, 62-184 B.)

QUANTITY: 73 bales, each containing 25 2-lb. bags of cornmeal, and 304 bales, each containing 2 25-lb. bags of flour, at Norfolk, Va., in possession of Economy Stores, Inc.

SHIPPED: Between 4-16-65 and 5-11-65, from Como, N.C., and Huntington, W. Va.

LIBELED: 6-22-65, E. Dist. Va.

CHARGE: 402(a)(3)—contained rodent excreta pellets, rodent hairs, a rodent nest, and was rodent gnawed; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 7-2-65. Consent—claimed by Economy Stores, Inc. Segregated; 63 bags of cornmeal and 139 bags of flour were denatured.

FLOUR

30406. Flour. (F.D.C. No. 51760. S. No. 44-933 B.)

INFORMATION FILED: 11-15-65, Dist. Mass., against Cassaro, Inc., and Salvatore Cassaro, clerk, Medford, Mass.

ALLEGED VIOLATION: Between 4-30-65 and 5-4-65, while quantities of flour were being held for sale after shipment in interstate commerce, the defendants caused flour to be held in a building that was accessible to insects and to be

exposed to contamination by insects, by causing the flour to be placed in insect-contaminated flour conveying equipment, which act resulted in the article being adulterated.

CHARGE: 402(a)(3)—contained insects and insect parts; and 402(a)(4)—held under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 12-6-65. Corporation—\$500 fine; Cassaro—\$100 fine.

30407. Flour and rice. (F.D.C. No. 51205. S. Nos. 113-129/30 A.)

INFORMATION FILED: 7-23-65, Dist. Md., against T. L. Ruark & Co., Inc., and Charles H. Watson, Jr., president, Salisbury, Md.

ALLEGED VIOLATION: Between 7-13-64 and 11-18-64, while quantities of flour and rice were being held for sale after shipment in interstate commerce, the defendants caused the articles to be held in a building that was accessible to rodents, insects, and birds and to be exposed to contamination by rodents, insects, and birds, which acts resulted in the articles being adulterated.

CHARGE: 402(a)(3)—the flour contained insects, insect larvae, and cast skins, and the rice contained rodent urine; and 402(a)(4)—both articles held under insanitary conditions.

PLEA: Nolo contendere.

DISPOSITION: 11-26-65. Corporation—\$300 fine, plus costs; Watson—\$300 fine, plus costs.

30408. Self-rising flour. (F.D.C. No. 51334. S. No. 56-191 B.)

INFORMATION FILED: 8-4-65, S. Dist. W. Va., against Elk Grocery Co., Inc., Lemon E. Harrah, vice president and general manager, and Arlie R. Frye, warehouse manager, Charleston, W. Va.

ALLEGED VIOLATION: Between 10-26-64 and 1-22-65, while quantities of flour were being held for sale after shipment in interstate commerce, the defendants caused the article to be held in a building that was accessible to rodents and to be exposed to contamination by rodents, which act resulted in the article being adulterated.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 11-8-65. Corporation—\$25 fine; Harrah—\$25 fine; Frye—\$25 fine.

30409. Flour. (F.D.C. No. 51687. S. No. 26-730 B.)

QUANTITY: 69 100-lb. bags, at Quincy, Ill., in possession of N. Kohl Grocer Co.

SHIPPED: Between 3-9-65 and 6-21-65, from Minneapolis, Minn.

LIBELED: 9-13-65, S. Dist. Ill.

CHARGE: 402(a)(3)—contained bird excreta; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 12-29-65. Default—destruction.

30410. Flour. (F.D.C. No. 51696. S. Nos. 37-981/2 B.)

QUANTITY: 1,060 100-lb. bags at San Juan, P.R., in possession of Almacenes Maritimos.

SHIPPED: 8-23-65, from Houston, Tex.

LIBELED: 10-1-65, Dist. P.R.

CHARGE: 402(a)(3)—contained insects; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 11-4-65. Consent—claimed by General Mills, Inc., and denatured for use as animal feed.

30411. Flour and Donut mix. (F.D.C. No. 51824. S. Nos. 37-977/79 B.)

QUANTITY: 518 100-lb. bags of flour and 18 100-lb. bags of Donut mix, at San Juan, P.R., in possession of Covadonga Warehouse.

SHIPPED: Between 7-6-65 and 8-23-65, from Houston and Galveston, Tex., New York, N.Y., and Baltimore, Md.

LIBELED: 10-5-65, Dist. P.R.

CHARGE: 402(a)(3)—contained insects; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 11-9-65. Consent—claimed by General Mills, Inc., for denaturing for use as animal feed.

30412. Flour. (F.D.C. No. 51671. S. Nos. 37-975/6 B.)

QUANTITY: 148 100-lb. bags, at San Juan, P.R., in possession of Covadonga Warehouse.

SHIPPED: 6-21-65, from Houston, Tex.

LIBELED: 9-20-65, Dist. P.R.

CHARGE: 402(a)(3)—contained insects and insect parts; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 10-20-65. Consent—claimed by Standard Tilton Milling Co., Minneapolis, Minn., and denatured for use as animal feed.

30413. Flour (2 seizure actions). (F.D.C. Nos. 51831/32. S. Nos. 63-173/5 B.)

QUANTITY: 11 bales containing 10 5-lb. bags each, 3 25-lb. bags, and 17 bales containing 5 10-lb. bags each, at Petersburg, Va.; and 54 bales containing 10 5-lb. bags each, and 131 bales containing 5 10-lb. bags each, at Chesapeake, Va.

SHIPPED: 5-21-65 and 7-15-65, from Salina, Kans.

RESULTS OF INVESTIGATION: Inspection of Brinkley & Co., Inc., Petersburg, Va., showed that the flour shipped as above had been held under insanitary conditions in rodent-contaminated bags in a rodent-infested warehouse, and that some of such flour had thereafter been shipped to Chesapeake, Va., where it had been commingled with other flour.

LIBELED: On or about 10-13-65, E. Dist. Va.

CHARGE: 402(a)(3)—contained rodent excreta pellets and rodent hairs and was rodent gnawed; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 11-9-65; 11-4-65. Default—destruction.

30414. Flour. (F.D.C. No. 51857. S. No. 68-365 B.)

QUANTITY: 450 100-lb. bags, at Charlestown, Mass.

SHIPPED: 8-30-65, from Kansas City, Mo.

LIBELED: 11-2-65, Dist. Mass.

CHARGE: 402(a)(3)—contained insects while held for sale.

DISPOSITION: 11-30-65. Consent—claimed by Boston & Maine Corp., Boston, Mass., and reconditioned for tannery use.

MISCELLANEOUS CEREALS AND CEREAL PRODUCTS

30415. Wheat. (F.D.C. No. 51461. S. No. 14-657 B.)

QUANTITY: 4,043,460 lbs. at Berthoud, Colo., in possession of Denver Elevators.

SHIPPED: Between 8-3-61 and 5-17-65, from Chugwater, Wyo., and elsewhere outside the State of Colorado.

LIBELED: 7-23-65, Dist. Colo.

CHARGE: 402(a)(3)—contained rodent excreta pellets, dead mice, bird excreta, and animal excreta; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 9-17-65. Consent—claimed by the Colorado Milling & Elevator Co., Denver, Colo., for use as animal feed.

30416. Wheat. (F.D.C. No. 51456. S. No. 9-768 B.)

QUANTITY: 88,320 lbs. at Seattle, Wash.

SHIPPED: 6-29-65, from Shelby, Mont., by Greely Elevator Co.

LIBELED: 7-14-65, W. Dist. Wash.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 7-22-65. Consent—claimed by Greely Elevator Co., Great Falls, Mont., and denatured for use as animal feed.

30417. Wheat. (F.D.C. No. 51430. S. No. 8-319 B.)

QUANTITY: 88,000 lbs. at Kansas City, Mo.

SHIPPED: 5-28-65, from Hebron, Nebr., by Burlington Elevator Co.

LIBELED: 6-9-65, W. Dist. Mo.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 6-10-65. Consent—claimed by Simonds-Shields-Theis Grain Co., and denatured.

30418. Wheat (2 seizure actions). (F.D.C. Nos. 49808/09. S. Nos. 44-889 A; 44-893 A.)

QUANTITY: 242,400 lbs. at Salina, Kans.

SHIPPED: On 2-10-64 and 2-11-64, from Albin, Wyo., by Albin Elevator Co., and Truckers Terminal Elevator Co.

LIBELED: 3-6-64, Dist. Kans.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 4-3-64. Consent—claimed by Albin Elevator Co. Reconditioned; 9,790 lbs. destroyed.

30419. Wheat (2 seizure actions). (F.D.C. Nos. 50274; 50507. S. Nos. 59-497 A; 59-950 A.)

QUANTITY: A commingled lot of 743,300 lbs., and a lot of 250,800 lbs., at Lincoln, Nebr.

SHIPPED: Between 7-18-64 and 7-25-64, part of the 743,300-lb. lot and all of the 250,800-lb. lot, from St. Francis, Kans., by St. Francis Mercantile Equity Exchange.

LIBELED: 8-6-65 and 8-24-64, Dist. Nebr.

CHARGE: 402(a) (3)—the 743,300-lb. lot contained rodent excreta pellets and the 250,800-lb. lot contained insect-damaged kernels when shipped.

DISPOSITION: On or about 9-17-64 and 9-24-64. Consent—claimed by St. Francis Mercantile Equity Exchange. Segregated and reconditioned; 154,950 lbs. denatured.

30420. Wheat. (F.D.C. No. 49404. S. No. 18-500 X.)

QUANTITY: 129,000 lbs. at Enid, Okla.

SHIPPED: 9-18-63, from Hitchland, Tex., by Hitch Grain Co.

LIBELED: 10-11-63, W. Dist. Okla.

CHARGE: 402(a) (2) (B)—when shipped, the article was a raw agricultural commodity and contained a pesticide chemical, a mercurial compound, which was unsafe within the meaning of 408(a), since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on wheat had been prescribed by regulations.

DISPOSITION: 5-24-64. Consent—claimed by Hitch Grain Co., Hitchland, Tex. Reconditioned; 13,970 lbs. segregated as unfit.

30421. Rice. (F.D.C. No. 51191. S. No. 19-833 B.)

QUANTITY: 100 100-lb. bags, at Fresno, Calif., in possession of Marbo Quality Foods, Inc.

SHIPPED: 2-22-65 and 3-30-65, from Houston, Tex.

LIBELED: 5-18-65, S. Dist. Calif.

CHARGE: 402(a) (3)—contained rodent urine and bird excreta; and 402(a) (4)—held under insanitary conditions.

DISPOSITION: 6-18-65. Consent—claimed by Marbo Quality Foods, Inc., Fresno, Calif. Segregated and reconditioned; 10 bags delivered to a public institution for use as animal feed.

30422. Rice. (F.D.C. No. 47667. S. Nos. 41-447/8 T.)

QUANTITY: 120 100-lb. bags, at Port Newark, N.J.

SHIPPED: 4-22-62, from South Dos Palos, Calif.

RESULTS OF INVESTIGATION: Investigation indicated that the article may have become adulterated while in transit.

LIBELED: 6-20-62, Dist. N.J.

CHARGE: 402(a) (3)—contained insects while in interstate commerce.

DISPOSITION: 7-11-62. Consent—claimed by Sol H. Rabinowitz, New York, N.Y. Segregated; 29 lbs. destroyed.

30423. Rice. (F.D.C. No. 51693. S. No. 18-642 B.)

QUANTITY: 80 25-lb. bags, at Hilo, Hawaii, in possession of Hilo Transportation & Terminal Co., Ltd.

SHIPPED: 6-7-65, from San Francisco, Calif.

LIBELED: 9-30-65, Dist. Hawaii.

CHARGE: 402(a) (3)—contained insects; and 402(a) (4)—held under insanitary conditions.

DISPOSITION: 11-3-65. Default—destruction.

30424. Rice. (F.D.C. No. 51648. S. Nos. 59-471/3 B.)

QUANTITY: 86 100-lb. bags at Miami, Fla., in possession of John Sexton & Co.

SHIPPED: 5-13-65, from Houston, Tex.

LIBELED: On or about 8-30-65, S. Dist. Fla.

CHARGE: 402(a) (3)—contained insects; and 402(a) (4)—held under insanitary conditions.

DISPOSITION: 11-15-65. Default—destruction.

30425. Rice. (F.D.C. No. 51672. S. No. 120-340 B.)

QUANTITY: 38 100-lb. bags, at New York, N.Y., in possession of Unity Warehouse Co., Inc.

SHIPPED: 7-13-65, from Westfield, N.J.

LIBELED: 9-22-65, S. Dist. N.Y.

CHARGE: 402(a) (3)—contained insects, rodent urine, and rodent excreta pellets; and 402(a) (4)—held under insanitary conditions.

DISPOSITION: 11-29-65. Default—destruction.

30426. Rice. (F.D.C. No. 51856. S. Nos. 63-217/20 B, 64-057/59 B, 64-061 B.)

QUANTITY: 157 cases, each containing 12 2-lb. pkgs., 99 cases, each containing 12 3-lb. pkgs., 128 bales and 97 bales, each containing 20 3-lb. bags, at Raleigh, N.C., in possession of Britt Brokerage Co., Inc.

SHIPPED: Between 3-2-65 and 7-23-65, from Stuttgart, Ark.

LIBELED: 11-5-65, E. Dist. N.C.

CHARGE: 402(a) (3)—contained insects and insect parts; and 402(a) (4)—held under insanitary conditions.

DISPOSITION: 12-8-65. Consent—claimed by The Arkansas Rice Growers Cooperative Association, Stuttgart, Ark., and reconditioned.

30427. Puffed rice and cornmeal mix. (F.D.C. No. 51348. S. Nos. 6-192 A, 6-195 A.)

INFORMATION FILED: 8-5-65, S. Dist. W. Va., against Davis Wholesale Co., Inc., Lewis A. Davis, president, and Thurman J. Johnson, warehouse manager, Huntington, W. Va.

ALLEGED VIOLATION: Between 9-29-64 and 10-16-64, while quantities of puffed rice and cornmeal mix were being held for sale after shipment in interstate commerce, the defendants caused the articles to be held in a building that was accessible to rodents and insects and to be exposed to contamination by rodents and insects, which acts resulted in the articles being adulterated.

CHARGE: 402(a) (3)—the puffed rice contained rodent excreta, rodent hairs, and insects; and the cornmeal mix contained insect larvae and webbing; and 402(a) (4)—both articles held under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 10-19-65. Corporation—\$100 fine; Davis—\$100 fine; Johnson—\$100 fine.

30428. Barley. (F.D.C. No. 51703. S. No. 11-475 B.)

QUANTITY: 106,500 lbs. at Longview, Wash.

SHIPPED: 9-30-65, from Condon, Oreg., by Continental Grain Co.

LIBELED: 10-26-65, W. Dist. Wash.

CHARGE: 402(a)(2)(B)—when shipped, the article was a raw agricultural commodity and contained a pesticide chemical, a mercurial compound, which was unsafe within the meaning of 408(a) since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on barley had been prescribed by regulations.

DISPOSITION: 11-29-65. Default—destruction.

30429. Unpopped popcorn, green split peas, dried garbanzos (chickpeas), dried navy beans, rice, and paprika. (F.D.C. No. 51490. S. Nos. 120-881/5, 120-887/9 B, 120-891 B, 120-894 B.)

QUANTITY: 190 100-lb. bags of popcorn, 13 100-lb. bags of split peas, 35 100-lb. bags of dried garbanzos, 22 100-lb. bags of dried navy beans, 20 100-lb. bags of rice, and 5 110-lb. bags of paprika, at New York, N.Y.

SHIPPED: Between 11-27-62 and 10-21-64, from New Paris, Ind.; Moscow, Idaho; Radnor, Calif.; Greeley, Colo.; Murcia, Spain; and Stuttgart, Ark.

RESULTS OF INVESTIGATION: Inspection of the warehouse of Baker & Williams, New York, N.Y., showed that the articles were held in an insect- and rodent-infested warehouse in rodent- and insect-contaminated bags.

LIBELED: 6-24-65, S. Dist. N.Y.

CHARGE: 402(a)(3)—contained insects, insect excreta, insect webbing, rodent urine, rodent hairs, and mold; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 11-5-65. Default—destruction.

30430. Unpopped popcorn. (F.D.C. No. 51827. S. Nos. 101-274/5 B, 101-277/80 B.)

QUANTITY: 6 cases, each containing 12 2-lb. bags; 23 cases, each containing 24 1-lb. bags; 10 cases, each containing 24 1-lb. bags (yellow); 15 cases, each containing 12 2-lb. bags (white); 17 cases, each containing 12 2-lb. bags (yellow); and 10 cases, each containing 12 4-lb. pails (white), at Los Angeles, Calif.

SHIPPED: 9-30-64 and 7-30-65, from Sac City and Schaller, Iowa.

LIBELED: 10-12-65, S. Dist. Calif.

CHARGE: 402(a)(3)—contained insects while held for sale.

DISPOSITION: 11-22-65. Default—destruction.

30431. Unpopped popcorn. (F.D.C. No. 51425. S. No. 26-297 B.)

QUANTITY: 55 cases, each case containing 12 2-lb. bags, at St. Louis, Mo.

SHIPPED: 3-15-65, from Milford, Ill., by Alver Bros. Co.

LABEL IN PART: (Bag) "Buddy Boy White Hulless Popcorn * * * Alver Brothers Company Distributors, Milford, Ill."

LIBELED: 6-4-65, E. Dist. Mo.

CHARGE: 402(a)(3)—contained bird excreta, rodent urine, and rodent-gnawed kernels; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 7-21-65. Default—delivered to a public institution for use as animal feed.

30432. Unpopped popcorn. (F.D.C. No. 51417. S. No. 95-522 B.)

QUANTITY: 95 cases, each containing 12 2-lb. bags, at Hutchinson, Kans.

SHIPPED: 3-31-65, from Milford, Ill., by Alver Popcorn Co.

LABEL IN PART: (Bag) "Our Family Popcorn * * * Distributed by Nash Finch Company Minneapolis, Minnesota."

LIBELED: On or about 7-20-65, Dist. Kans.

CHARGE: 402(a)(3)—contained insect larvae, insect parts, rodent excreta pellets, and bird excreta; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 1-3-66. Default—destruction.

30433. Oatmeal, oat flakes, and rolled oats. (F.D.C. No. 51846. S. Nos. 15-630/3 B.)

QUANTITY: 14 cases, each containing 15 8-oz. pkgs. of oatmeal, 27 cases, each containing 20 17-oz. pkgs. of oat flakes, and 16 cases, each containing 20 1-lb. 1½-oz. pkgs. of rolled oats, at Los Angeles, Calif., in possession of Lund-sing & Co., Inc.

SHIPPED: 10-14-64 and 10-19-64, from Goteborg, Sweden, and Hamburg, Germany.

LIBELED: 10-22-65, S. Dist. Calif.

CHARGE: 402(a)(3)—contained insects, insect fragments, insect parts, and insect excreta; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 11-17-65. Default—destruction.

DAIRY PRODUCTS

BUTTER

30434. Butter. (F.D.C. No. 51666. S. No. 7-680 B.)

QUANTITY: 23 boxes, each containing approximately 64 lbs., at New York, N.Y.

SHIPPED: 9-3-65, from Hartley, Iowa, by Hartley Creamery.

LABEL IN PART: (Box) "Butter Distributed by Zenith-Godley Co. N.Y."

RESULTS OF INVESTIGATION: Inspection of the manufacturer, Hartley Creamery, showed that the article was made from filthy cream.

LIBELED: 9-20-65, S. Dist. N.Y.

CHARGE: 402(a)(3)—contained insects, insect parts, insect fragments, and feather barbules when shipped.

DISPOSITION: 11-5-65. Default—destruction.

30435. Butter. (F.D.C. No. 50203. S. No. 7-559 B.)

QUANTITY: 65 60-lb. ctns. at New York, N.Y.

SHIPPED: 6-30-65, from Readlyn, Iowa, by Northeast Iowa Cooperative Creameries Association.

LABEL IN PART: (Ctn.) "Butter Distributed by Zenith-Godley Company, New York."

RESULTS OF INVESTIGATION: Inspection of Tripoli Cooperative Creamery Co., Tripoli, Iowa, revealed that filthy cream was being used in the manufacture of the butter.

LIBELED: On or about 7-22-65, S. Dist. N.Y.

CHARGE: 402(a)(3)—contained a filthy substance when shipped.

DISPOSITION: 11-29-65. Default—destruction.

30436. Butter. (F.D.C. No. 50205. S. No. 67-870 B.)

QUANTITY: 10 64-lb. boxes at Belmont, Mass.

SHIPPED: 7-16-65, from Harlan, Iowa.

LIBELED: 9-15-65, Dist. Mass.

CHARGE: 402(a)(3)—contained mold while held for sale.

DISPOSITION: 11-29-65. Default—destruction.

30437. Butter. (F.D.C. No. 50197. S. Nos. 23-961/2 B.)

QUANTITY: 53 cases, each containing 12 ctns., and 9 cases, each containing 12 ctns., at Oklahoma City, Okla..

SHIPPED: 3-16-65, from Concordia, Mo., by Concordia Creamery Co.

LABEL IN PART: (Ctn. lid) "Net wt. 8 ounces Meadow Gold Lightly Salted Whipped Butter THIS BUTTER IS CHURNED FROM PASTEURIZED CREAM FROM HERDS LOCATED IN MODIFIED ACCREDITED TUBERCULIN FREE AREAS DISTRIBUTED BY BEATRICE FOODS CO., CHICAGO, ILLINOIS," and "Colvert's DIST. BY COLVERT DAIRY PRODUCTS CO., ARDMORE, OKLA. WHIPPED BUTTER LIGHTLY SALTED 8 ozs. Net wt."

RESULTS OF INVESTIGATION: Examination showed the article to be between 3.5 and 5.0 percent short weight.

LIBELED: 3-31-65, W. Dist. Okla.

CHARGE: 403(e)(2)—when shipped, the article failed to bear a label containing an accurate statement of the quantity of contents.

DISPOSITION: 4-19-65. Default—delivered to a charitable institution for its use.

30438. Butter. (F.D.C. No. 50201. S. Nos. 30-472/3 B.)

QUANTITY: 17 64-lb. ctns. at St. Paul, Minn.

SHIPPED: 6-28-65, from Langdon, N. Dak., by Langdon Creamery Co.

LABEL IN PART: (Ctns.) "Creamery Butter Keep Refrigerated."

LIBELED: 7-12-65, Dist. Minn.

CHARGE: 402(b)(2)—when shipped, a product which contained less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: 9-21-65. Consent—claimed by Langdon Creamery Co., Langdon, N. Dak., and reworked.

30439. Butter. (F.D.C. No. 50200. S. No. 46-737 B.)

QUANTITY: 62 68-lb. boxes at Chicago, Ill.

SHIPPED: 5-24-65, from Creston, Iowa, by Center Milk Products Co.

LABEL IN PART: (Box) "Butter Bulk Creamery Butter."

LIBELED: 6-24-65, N. Dist. Ill.

CHARGE: 402(b)(2)—when shipped, a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: 7-6-65. Consent—claimed by Berkshire Foods, Inc., Chicago, Ill., and reworked.

CHEESE

30440. Monterey jack cheese. (F.D.C. No. 52065 S. Nos. 8-636 B, 12-636 B.)

QUANTITY: 800 40-lb. cases at Salt Lake City, Utah.

SHIPPED: Between 5-7-65 and 5-8-65, 77 cases from Vancouver, Canada, and 872 cases from Richfield, Idaho.

LABEL IN PART: (Case) "Bangerter Better Pasteurized Whole Milk Monterey Jack Cheese Rindless Block Mfg. by Bangerter Better Foods (Nelson Ricks Creamery Co.) Salt Lake City, Utah Benburg, Idaho."

RESULTS OF INVESTIGATION: The 77-case lot had been shipped originally from Salt Lake City, Utah, by Nelson Ricks Creamery and after rejection by the Canadian authorities had been returned. The 872-case lot had been shipped by C. W. Ward, t/a Nelson Ricks Creamery Co., Richfield, Idaho.

LABELLED: 9-20-65, Dist. Utah.

CHARGE: 403(g) (1)—when shipped the article purposed and was represented to be monterey jack cheese, and it failed to conform to the definition and standard of identity prescribed by regulations, since it had been prepared from milk which was not pasteurized.

DISPOSITION: 9-28-65. Consent—claimed by Nelson Ricks Creamery Co., Salt Lake City, Utah, and by C. W. Ward, t/a Nelson Ricks Creamery Co., Richfield, Idaho, for conversion into pasteurized processed cheese.

30441. Cheddar cheese. (F.D.C. No. 52061 S. No. 133-776 B.)

QUANTITY: 77 cases, each containing 16 lbs., at Milwaukie, Oreg.

SHIPPED: 7-16-65 from Carthage, Mo., by L. D. Schreder Cheese Co.

LABEL IN PART: (Pkg.) "Mayfresh Kitchens * * * Mild Cheddar * * * Mfg. for: Mayfair Markets."

LABELLED: 1-12-66, Dist. Oreg.

CHARGE: 402(a) (1)—when shipped, the article contained a poisonous and deleterious substance, enterotoxin-producing coagulase positive staphylococci, in a quantity which ordinarily renders the food injurious to health.

DISPOSITION: 3-9-66. Default—a portion of the article was delivered to the State University for experimental purposes, and the remainder was destroyed.

MISCELLANEOUS DAIRY PRODUCTS

30442. Dried buttermilk and nonfat dry milk. (F.D.C. No. 51853 S. Nos. 50-295 6 B.)

QUANTITY: 20 100-lb. bags of buttermilk powder, and 50 100-lb. bags of nonfat dry milk, at Miami, Fla., in possession of Dade Bonded Warehouse, Inc.

SHIPPED: On 2-10-65 and 2-23-65 from Eau Claire, Wis.

LABELLED: On or about 11-15-65, S. Dist. Fla.

CHARGE: 402(a) (3)—contained rodent urine, rodent excreta pellets, and rodent hairs, and was rodent gnawed; and 402(a) (4)—held under unsanitary conditions.

DISPOSITION: 1-17-66. Default—destruction.

EGGS

30443. Frozen eggs. (F.D.C. No. 50532. S. Nos. 55-611/2 A.)

QUANTITY: 1,250 30-lb. cans at Des Moines, Iowa.

SHIPPED: 8-28-64, from Worcester, Mass., to Des Moines, Iowa. This was a return shipment.

LABEL IN PART: (Can) "Frozen Whole Eggs * * * Packed by Des Moines Food, Inc., Des Moines, Iowa."

LIBELED: 9-28-64, S. Dist. Iowa.

CHARGE: 402(a)(1)—when shipped, the article contained an added poisonous and deleterious substance, Salmonella micro-organisms, which may have rendered it injurious to health; and 402(a)(3)—contained decomposed eggs.

DISPOSITION: 3-3-65. Consent—claimed by Des Moines Foods, Inc. Segregated; 242 cans were destroyed, the remainder were pasteurized, dried, and denatured for use as animal feed.

30444. Frozen eggs. (F.D.C. No. 50955. S. No. 24-029 B.)

QUANTITY: 61 30-lb. cans at Champaign, Ill.

SHIPPED: 1-6-65, from York, Nebr., by Standard Brands, Inc.

LABEL IN PART: (Can) "Frozen Whole Eggs * * * Frozen Fleischmann's * * * Distributed by Standard Brands Incorporated, New York, N.Y."

LIBELED: 2-18-65, E. Dist. Ill.

CHARGE: 402(a)[1]—when shipped, the article contained an added poisonous and deleterious substance, Salmonella micro-organisms, which may have rendered it injurious to health.

DISPOSITION: 5-17-65. Consent—claimed by Standard Brands, Inc., New York, N.Y. Reconditioned and in part denatured.

30445. Frozen eggs. (F.D.C. No. 51099. S. No. 43-925 B.)

QUANTITY: 342 30-lb. cans, at East Hartford, Conn.

SHIPPED: 1-8-65, from Rock Island, Ill., by Roberts Frozen Foods.

LABEL IN PART: (Can) "Frozen Whole Eggs Packed by Roberts Frozen Foods Rock Island, Illinois."

LIBELED: 3-10-65, Dist. Conn.

CHARGE: 402(a)(1)—when shipped, the article contained an added poisonous and deleterious substance, Salmonella micro-organisms, which may have rendered it injurious to health.

DISPOSITION: 5-21-65. Consent—claimed by E. L. Cooney Co., Boston, Mass., and reconditioned by pasteurization.

30446. Frozen eggs. (F.D.C. No. 50885. S. Nos. 26-238/9 A.)

QUANTITY: 1,000 30-lb. cans at Boston, Mass.

SHIPPED: 8-6-64 and 8-13-64, from Gaylord, Minn., by Rosenberg & Son Produce Co., to Chicago, Ill., and subsequently reshipped to Boston, Mass.

LABEL IN PART: (Can) "Whole Eggs Packed by Rosenberg and Son Gaylord, Minn."

LIBELED: 12-18-64, Dist. Mass.

CHARGE: 402(a)(1)—when shipped, the article contained an added poisonous and deleterious substance, Salmonella micro-organisms, which may have rendered it injurious to health.

DISPOSITION: 6-9-65. Consent—claimed by Meadow Brook Produce Co., Inc., Chicago, Ill. Reconditioned by pasteurization; 2 30-lb. cans destroyed.

30447. Frozen eggs. (F.D.C. No. 51424. S. No. 24-077 B.)

QUANTITY: 84 30-lb. cans at St. Louis, Mo.

SHIPPED: 5-5-65, from Pangburn, Ark.

LIBELED: 6-8-65, E. Dist. Mo.

CHARGE: 402(a)(3)—contained decomposed eggs while held for sale.

DISPOSITION: 7-8-65. Default—destruction.

30448. Frozen eggs. (F.D.C. No. 50996. S. Nos. 12-001/2 B.)

QUANTITY: 492 30-lb. cans at Salt Lake City, Utah.

SHIPPED: 11-23-64 and 12-8-64, from Los Angeles, Calif., by Dairy Fresh Products Co.

LABEL IN PART: (Can) "Whole Eggs * * * Pasteurized."

LIBELED: 2-1-65, Dist. Utah.

CHARGE: 402(a)(3)—contained decomposed eggs when shipped.

DISPOSITION: 9-7-65. Consent—claimed by Dairy Fresh Products Co., Los Angeles, Calif., for converting into animal feed.

30449. Frozen eggs. (F.D.C. No. 51527. S. No. 120-978 B.)

QUANTITY: 58 30-lb. cans at Monmouth Beach, N.J.

SHIPPED: 10-14-64, from Spring Glen, Pa., by A. A. Shade.

LABEL IN PART: (Tape on lid) "A. A. Shade Spring Glen Pa."

LIBELED: 7-28-65, Dist. N.J.

CHARGE: 402(a)(3)—contained decomposed eggs when shipped.

DISPOSITION: 9-15-65. Default—destruction.

30450. Frozen eggs. (F.D.C. No. 51535. S. No. 120-513 B.)

QUANTITY: 52 30-lb. cans at Bronx, N.Y.

SHIPPED: 7-12-65, from Boston, Mass., by Fleishman & Co.

LABEL IN PART: (Can) "Frozen Whole Eggs * * * Distributed by Bon Ton Foods Mt. Vernon, N.Y."

LIBELED: On or about 8-10-65, S. Dist. N.Y.

CHARGE: 402(a)(3)—contained decomposed eggs when shipped.

DISPOSITION: 9-30-65. Default—destruction.

30451. Frozen eggs. (F.D.C. No. 51668. S. Nos. 45-816/17 B.)

QUANTITY: 2,000 30-lb. cans at Chicago, Ill.

SHIPPED: 6-26-65 and 6-29-65, from Sumner, Iowa, by Sumner Packing Co., Inc.

LABEL IN PART: (Can) "Pasteurized Frozen Whole Eggs * * * Packed by Sumner Packing Co. Sumner, Iowa."

LIBELED: 9-20-65, N. Dist. Ill.

CHARGE: 402(a)(1)—when shipped, the article contained an added poisonous and deleterious substance, Salmonella micro-organisms, which may have rendered it injurious to health.

DISPOSITION: 10-11-65. Consent—claimed by Sol Rich & Co., Inc., Chicago, Ill., and reconditioned.

30452. Frozen eggs. (F.D.C. No. 51658. S. No. 117-737 B.)

QUANTITY: 39 30-lb. cans at Newark, N.J.

SHIPPED: 7-27-65, from Hillsdale, N.Y., by Pine Lane Poultry Farm.

LABEL IN PART: (Can lid) "Pine Lane Poultry Farm Hillsdale, N.Y. * * * Whole Eggs."

LIBELED: On or about 9-7-65, Dist. N.J.

CHARGE: 402(a)(1)—when shipped, contained an added poisonous and deleterious substance, Salmonella micro-organisms, which may have rendered it injurious to health; and 402(a)(3)—contained decomposed eggs.

DISPOSITION: 10-15-65. Default—destruction.

30453. Frozen eggs. (F.D.C. No. 51482. S. No. 25-608 B.)

QUANTITY: 407 30-lb. cans at Peoria, Ill.

SHIPPED: 10-20-64, from Grand Island, Nebr., by Twin Rivers Co., Inc.

LABEL IN PART: (Can) "Frozen Whole Eggs * * * Packed by Twin Rivers Company Inc. Grand Island Nebraska."

LIBELED: 9-7-65, S. Dist. Ill.

CHARGE: 402(a)(3)—contained decomposed eggs when shipped.

DISPOSITION: 10-27-65. Consent—claimed by L. D. Schreiber & Co., Inc., Chicago, Ill.; 27 cans segregated as unfit.

30454. Frozen eggs. (F.D.C. No. 51274. S. No. 36-596 B.)

QUANTITY: 764 30-lb. cans at Newark, N.J.

SHIPPED: 7-3-64, from Hope, Ark., by Delight Egg Farms, Inc.

LABEL IN PART: (Can lid) "Whole Eggs * * * Packed by Delight Egg Farms, Inc., Hope Arkansas."

LIBELED: On or about 4-28-65, Dist. N.J.

CHARGE: 402(a)(1)—when shipped, the article contained an added poisonous and deleterious substance, Salmonella micro-organisms, which may have rendered it injurious to health; and 402(a)(3)—contained decomposed eggs.

DISPOSITION: 10-29-65. Default—destruction.

30455. Frozen eggs. (F.D.C. No. 51373. S. Nos. 41-964 X, 7-324 A.)

INFORMATION FILED: 9-3-65, E. Dist. N.C., against Carlisle Poultry & Egg Associates, Inc., and Vance W. Weibley, secretary-treasurer, Burgaw, N.C.

SHIPPED: On 12-3-63 and 8-22-64, from Burgaw, N.C., to New York, N.Y., and Baltimore, Md.

LABEL IN PART: (Can) "30 LBS NET WEIGHT WHOLE EGGS * * * CARLISLE POULTRY & EGG ASSOC., INC. BURGAW NORTH CAROLINA 30 LBS. * * * WHOLE EGGS."

CHARGE: 402(a)(3)—contained decomposed eggs when shipped.

PLEA: Guilty by Carlisle Poultry & Egg Associates, Inc., to 2 counts; by Weibley to 1 count.

DISPOSITION: 11-1-65. Corporation—\$1,750 fine, of which \$1,000 was suspended; Weibley—\$250 fine.

30456. Frozen eggs. (F.D.C. No. 51833. S. No. 122-230 B.)

QUANTITY: 470 30-lb. cans at Brooklyn, N.Y.

SHIPPED: 9-27-65, from North Haven, Conn., by William K. Mais, Inc.

LIBELED: 10-18-65, E. Dist. N.Y.

CHARGE: 402(a)(3)—contained decomposed eggs when shipped and while held for sale.

DISPOSITION: 12-3-65. Consent—claimed by William K. Mais, Inc. Segregated; 270 cans denatured.

30457. Frozen eggs. (F.D.C. No. 51642. S. No. 117-736 B.)

QUANTITY: 18 30-lb. cans at Byram, Conn.

SHIPPED: 7-22-65 and 7-29-65, from Hillsdale, N.Y., by Pine Lane Poultry Farm.

LABEL IN PART: (Can) "Pine Lane Poultry Farm Hillsdale, N.Y. * * * Whole Eggs" or "Green Pasture Egg & Poultry Corp. Elizaville, N.Y."

LIBELED: 9-1-65, Dist. Conn.

CHARGE: 402(a)(1)—when shipped, the article contained an added poisonous and deleterious substance, Salmonella micro-organisms, which may have rendered it injurious to health.

DISPOSITION: 1-3-66. Default—destruction.

30458. Shell eggs. (F.D.C. No. 51230. S. No. 103-356 A.)

INDICTMENT RETURNED: 8-7-65, Dist. Utah, against Delbert H. Bryson, t/a Salt Lake Egg Co., Salt Lake City, Utah.

SHIPPED: 8-7-64, from Utah to Spokane, Wash.

LABEL IN PART: (Cases) "CHEX" and "30 Dozen EGGS PERISHABLE KEEP REFRIGERATED."

CHARGE: 402(a)(3)—when shipped, contained decomposed eggs and was otherwise unfit for human consumption by reason of the presence of bloody egg whites (albumen), eggs having an adherent (stuck) yolk, and eggs containing blood rings.

PLEA: Guilty.

DISPOSITION: 11-22-65. \$750 fine.

30459. Shell eggs. (F.D.C. No. 51093. S. No. 38-011 B.)

QUANTITY: 139 cases, each containing 30 doz. shell eggs, at Jersey City, N.J.

SHIPPED: 3-16-64, from Toronto, Canada.

LIBELED: On or about 3-16-65, Dist. N.J.

CHARGE: 402(a)(3)—contained decomposed eggs while held for sale.

DISPOSITION: 5-5-65. Default—destruction.

30460. Frozen salted egg yolks. (F.D.C. No. 51074. S. No. 81-426 A.)

QUANTITY: 1,160 30-lb. cans at Jersey City, N.J.

SHIPPED: 11-24-64, from Newton, Kans., by Hurst Products, Inc.

LABEL IN PART: (Can) "Salted Egg Yolks * * * Packed by Hurst Products Inc. Newton, Kansas."

LIBELED: 2-15-65, Dist. N.J.

CHARGE: 402(a)(1)—when shipped, the article contained an added poisonous and deleterious substance, *Salmonella* micro-organisms, which may have rendered it injurious to health.

DISPOSITION: 5-20-65. Consent—claimed by Hurst Products, Inc., and reconditioned by pasteurization.

FEEDS AND GRAINS

30461. Dried sugar beet pulp. (F.D.C. No. 51453. S. No. 108-363 B.)

QUANTITY: 700 50-lb. bags at Loganville, Wis.

SHIPPED: 6-4-65, from Minneapolis, Minn., by I. S. Joseph Co., Inc.

LABEL IN PART: (Bag) "Dried Beet Pulp With Beet Molasses * * * Manufactured by American Crystal Sugar Co. East Grand Forks, Minnesota."

LIBELED: 7-14-65, W. Dist. Wis.

CHARGE: 402(a)(2)(C)—when shipped, the article contained dieldrin, a food additive, which was unsafe within the meaning of 409, since it and its use and intended use were not in conformity with a regulation or exemption.

DISPOSITION: 8-19-65. Default—destruction.

30462. Medicated feed. (F.D.C. No. 50560. S. No. 54-666 A.)

QUANTITY: 63 50-lb. bags, at Dysart, Iowa, in possession of Evergreen Hatchery & Elevator.

SHIPPED: The article was prepared in part from diethylstilbestrol shipped on 11-7-63, from Lafayette, Ind.

LABEL IN PART: (Tag) "100 lbs. Net Evergreen 0.0022% Diethylstilbestrol Mixture for Fattening Beef Cattle. Feed at the rate of 1 pound per animal per day. Each pound contains 10 milligrams diethylstilbestrol * * * Manufactured by Evergreen Hatchery, Inc., Dysart, Iowa."

RESULTS OF INVESTIGATION: Analysis showed that the article contained approximately 50 percent of the declared amount of diethylstilbestrol.

LIBELED: 9-3-64, N. Dist. Iowa.

CHARGE: 402(a)(2)(C)—while held for sale, the article contained a food additive, diethylstilbestrol, which was unsafe within the meaning of 409 since it, and its use or intended use, was not in conformity with regulations in that the label failed to bear adequate directions to provide a daily diethylstilbestrol intake of 10 milligrams for each beef animal.

DISPOSITION: 9-29-64. Consent—claimed by Evergreen Hatchery, Inc., and relabeled.

30463. Animal Vimin With Kelp. (F.D.C. No. 50661. S. No. 42-534 A.)

QUANTITY: 800 50-lb. bags at Provo, Utah.

SHIPPED: 8-7-63, from Battle Mountain, Nev.

RESULTS OF INVESTIGATION: Analysis showed that the article contained less than 30 percent vitamin A and less than one percent riboflavin of the declared amounts of these ingredients.

LIBELED: 10-7-64, Dist. Utah.

CHARGE: 402(b)(1)—while held for sale, the valuable constituents, vitamin A and riboflavin, had been in part omitted or abstracted from the article.

The libel alleged also that the article was misbranded under provisions of the law applicable to drugs as reported in notices of judgment on drugs and devices, No. 8340.

DISPOSITION: 12-7-64. Default—destruction.

FISH AND SHELLFISH

30464. Ocean perch fillets. (F.D.C. No. 51628. S. No. 43-228 B.)

QUANTITY: 90 5-lb. ctns. of individually wrapped fillets at Boston, Mass.

SHIPPED: The fillets were from fish caught by the fishing vessel "Jeanne D'Arc" in the waters of the Atlantic Ocean outside the territorial limits of the State of Massachusetts, and unloaded on 7-26-65.

LABEL IN PART: (Wrapper insert) "Georges Bank Brand Fresh Ocean Perch Fillets [or "Frosted Rose Fish (Ocean Perch) Fillets"] * * * John Mantia & Sons Co., Inc. Fish Pier, Boston."

RESULTS OF INVESTIGATION: The fillets had been prepared and packed by John Mantia & Sons Co., Inc.

LIBELED: 8-19-65, Dist. Mass.

CHARGE: 402(a)(3)—contained parasitic copepods when shipped and while held for sale.

DISPOSITION: 11-29-65. Default—destruction.

30465. Frozen sturgeon. (F.D.C. No. 51531. S. Nos. 120-512 B, 121-379 B.)

QUANTITY: 113 bales, each containing approximately 200 lbs., and 35 bales, each containing approximately 100 lbs., at Brooklyn, N.Y.

SHIPPED: On 6-20-63 and 2-24-64, from Iran and Los Angeles, Calif.

LIBELED: 7-30-65, E. Dist. N.Y.

CHARGE: 402(a)(3)—contained decomposed fish when shipped.

DISPOSITION: 10-27-65. Consent—claimed by Beluga Caviar Corp., New York, N.Y. Segregated; 89 bales rejected as unfit.

30466. Frozen lobster tails. (F.D.C. No. 51631. S. No. 16-063 B.)

QUANTITY: 424 cases, containing a total of approximately 5,800 lbs., at Jersey City, N.J.

SHIPPED: 3-3-65, from Kumeu, New Zealand, by Henderson Distributors, Ltd.

LABEL IN PART: (Case) "Henderson Distributors Ltd. CTC Finest Lobster Tails * * * Produce of New Zealand * * * Packed by Henderson Distributors Ltd., Kumeu, N.Z."

LIBELED: 9-15-65, Dist. N.J.

CHARGE: 402(a)(3)—contained decomposed lobster tails when shipped.

DISPOSITION: 10-4-65. Consent—destruction.

30467. Frozen lobster tails. (F.D.C. No. 51641. S. No. 121-992 B.)

QUANTITY: 146 cases, each containing 12 9-oz. pkgs., at Jersey City, N.J.

SHIPPED: The article was repacked in June 1965, by Wouka Distributing Co., Inc., New York, N.Y., from bulk lobster tails imported into the United States in January 1965, from South Africa, and shipped 6-24-65, by Wouka Distributing Co., Inc., to a dealer in Detroit, Mich., who returned the lot on 7-20-65, to Jersey City, N.J.

LABEL IN PART: (Pkg.) "Quick Frozen South African Rock Lobster Tails Cape-town * * * Product of Republic of South Africa."

LIBELED: On or about 9-8-65, Dist. N.J.

CHARGE: 402(a)(3)—contained decomposed lobster tails when shipped.

DISPOSITION: 10-15-65. Default—destruction.

30468. Frozen shrimp. (F.D.C. No. 51649. S. Nos. 58-746/7 B.)

QUANTITY: 252 ctns., each containing 12 1½-lb. bags, at Atlanta, Ga.

SHIPPED: On 7-9-65 and 7-29-65, from Tampa, Fla., by Singleton Packing Corp.

LABEL IN PART: (Bag) "Golden Fleet Brand Individually Frozen Peeled & Deveined Shrimp * * * Packed by Singleton Packing Corp. Tampa, Florida."

LIBELED: 9-1-65, N. Dist. Ga.

CHARGE: 402(a)(3)—contained decomposed shrimp when shipped.

DISPOSITION: 10-19-65. Consent—claimed by Singleton Packing Corp. Segregated; 1,135 lbs. destroyed.

30469. Canned tunafish. (F.D.C. No. 51138. S. Nos. 16-205 B, 16-213 B.)

QUANTITY: 1,300 cases, of 48 cans each, at Terminal Island, Calif.

SHIPPED: 12-30-64, from Detroit, Mich., by P & B Cartage & Warehouse, Inc.

LABEL IN PART: (Can) "A&P Fancy Albacore Solid White Tuna Net Wt. 7 ozs. * * * The Great Atlantic and Pacific Tea Company, Inc., New York, N.Y. Distributor."

RESULTS OF INVESTIGATION: Examination showed that the article was from 0.57 percent to 3.29 percent short weight.

LIBELED: 3-2-65, S. Dist. Calif.

CHARGE: 403(e)(2)—when shipped, the article failed to bear a label containing an accurate statement of the quantity of contents.

DISPOSITION: 3-23-65. Consent—claimed by Star-Kist Foods, Inc., Terminal Island, Calif., for relabeling.

30470. Frozen crabmeat. (F.D.C. No. 49906. S. Nos. 102-391 A, 102-998 A.)

QUANTITY: 142 cases, each containing 12 pkgs., at Redmond, Wash., in possession of Pan Alaska Fisheries, Inc.

SHIPPED: Between 9-1-63 and 9-30-63, from the State of Alaska.

LABEL IN PART: (Pkg.) "Fresh Frozen Ready To Eat King Crab * * * Meat Net Weight 2½ lbs. Produced In The State of Alaska By Pan Alaska Fisheries Seattle, U.S.A."

RESULTS OF INVESTIGATION: Examination showed that the article was approximately 12.9 percent short weight. The article had been shipped as above in the form of unlabeled 15-lb. ice-coated frozen blocks which the dealer had packaged after subdividing such blocks into 6 parts.

LIBELED: 3-12-64, W. Dist. Wash.

CHARGE: 403(e)(2)—while held for sale, the food failed to bear a label containing an accurate statement of the quantity of the contents.

DISPOSITION: 1-18-65. Consent—claimed by Pan Alaska Fisheries, Inc., Seattle, Wash., and canned and relabeled.

FRUITS AND VEGETABLES**CANNED FRUIT**

30471. Canned peaches. (F.D.C. No. 51898. S. No. 79-500 B.)

QUANTITY: 730 cases, each containing 24 1-lb. 13-oz. cans, at Lexington, Ky.

SHIPPED: 8-13-65, from Gramling, S.C., by the Gramling Canning Co., Inc.

LABEL IN PART: (Can) "Gramling Tree Ripened Yellow Freestone Peaches Halves In Heavy Syrup * * * Packed by Gramling Canning Co. Inc., Gramling, S.C."

LIBELED: 12-9-65, E. Dist. Ky.

CHARGE: 403(h)(1)—when shipped, the quality of the article fell below the standard of quality for canned peach halves, since all peach units of the article tested were not pierced by a weight of not more than 300 grams, and since the weight of the largest unit in the container was more than twice the weight of the smallest unit; and its label failed to bear, as specified by regulations, a statement that it fell below such standard.

DISPOSITION: 2-9-66. Consent—claimed by Gramling Canning Co., Inc., for relabeling.

30472. Canned grapefruit, pineapple, and corn. (F.D.C. No. 52166. S. Nos. 55-129/32 B.)

QUANTITY: 8 cases, each containing 24 1-lb. cans of grapefruit, 60 cases, each containing 24 1-lb. 4-oz. cans of pineapple, 49 cases, each containing 6 unlabeled cans of yellow corn, and 39 cases, each containing 24 1-lb. cans of cream-style golden corn, at Baltimore, Md.

SHIPPED: 6-25-65, from New York, N.Y.

RESULTS OF INVESTIGATION: Examination showed that the articles had been water, smoke, and fire damaged, and that the cans were dented, rusted, and pitted, with some leaking or swollen, and others heat damaged or smoke blackened. Some of the labels were partly or entirely missing.

LIBELED: 1-28-66, Dist. Md.

CHARGE: 402(a)(3)—while held for sale, the articles contained a decomposed substance; 402(a)(4)—the articles had been held under insanitary conditions; and 403(e)—both lots of canned corn had cans that failed to bear a label containing (1) the name and place of business of the manufacturer, packer, or distributor; and (2) an accurate statement of the quantity of the contents.

DISPOSITION: 3-1-66. Default—destruction.

MISCELLANEOUS FRUIT PRODUCTS

30473. Orange juice. (Inj. No. 358.)

COMPLAINT FOR INJUNCTION FILED: 6-10-59, S. Dist. Tex., against Cal-Tex Citrus Juice, Inc., Houston, Tex., Gordon E. Van Liew, president, Dell Van Liew, vice president, and Arthur R. Becker, secretary-treasurer of the corporation.

NATURE OF BUSINESS: The complaint alleged that the defendants were engaged in the business of preparing, processing, packaging, selling, and distributing

an article represented to be orange juice; and that in conducting such business the defendants employed essentially the following method of operation:

(a) quantities of fresh oranges, which had been grown in Texas, Mexico, Florida, and California, were purchased by the defendants and delivered to the defendants' plant at Houston, Tex.;

(b) upon receipt at the defendants' Houston plant, the oranges were processed to express the juice therefrom, and water and sugar were added to and mixed with the juice;

(c) the orange juice to which water and sugar had been added was placed in tank trucks, or in 10-gallon milk cans for bulk distribution, or was prepared for distribution by packaging in 1-quart milk bottles, or in 1-quart milk-type cartons labeled in part as follows:

(Cartons) "Fresh Orange Juice"

or

"Fresh Orange Juice
as nature made it
. . . nothing added"

(d) the orange juice to which water and sugar had been added was sold and distributed in the aforesaid containers by the defendants to customers in the State of Texas and elsewhere under representations that it was a food consisting solely of orange juice.

CHARGE: The complaint alleged that the above-mentioned article, when sold and distributed as described above, was adulterated and misbranded as follows: 402(b)(2)—water and sugar had been substituted in part for orange juice which the article was represented to be; 402(b)(4)—water and sugar had been added to and mixed with orange juice so as to increase its bulk and reduce its quality and strength; 403(a)—the labeling of the article contained false and misleading representations and suggestions that the article consisted solely of orange juice; 403(b)—the article was offered for sale under the name of another food; and 403(i)(2)—the label of the article failed to bear the common or usual name of each ingredient.

The complaint alleged further that the defendants were violating the Act (1) by causing the introduction and delivery for introduction into interstate commerce of the above-mentioned article which was adulterated and misbranded as specified above; and (2) by causing an act to be done with respect to orange juice while held for sale after shipment in interstate commerce, namely, by causing water and sugar to be added to the juice of oranges that had been shipped into Texas and causing such juice with added water and sugar to be represented, sold, and distributed as a food consisting solely of orange juice, which act resulted in such orange juice being adulterated and misbranded as specified above.

DISPOSITION: On 6-10-59, a temporary restraining order was entered enjoining the defendants against the acts complained of. On 6-19-59, a hearing was held on the Government's motion for a preliminary injunction and after consideration of the pleadings, the evidence and argument of counsel, the court ordered that the motion for preliminary injunction be denied and that the temporary restraining order be dissolved. On 2-29-60, the court dismissed the injunction action without prejudice.

30474. Orange juice. (F.D.C. No. 42487. S. Nos. 28-918 P et al.)

INDICTMENT RETURNED: 3-1-60, S. Dist. Tex., against Gordon E. Van Liew, Dell Van Liew, Arthur R. Becker, and Verne C. Madison, of Houston, Tex.

ALLEGED VIOLATION: The indictment charged that the defendants conspired to introduce and did introduce into interstate commerce, with intent to defraud and mislead, quantities of an adulterated and misbranded food which was represented to be pure fresh orange juice. The nature of the allegations in the indictment with respect to these violations is set forth below in the opinion of the Court of Appeals.

PLEA: Not guilty.

DISPOSITION: On 3-31-60, the defendants filed a motion for dismissal of the indictment. On 7-25-60, after consideration of the briefs and arguments of counsel the court handed down the following opinion in denial of such motion:

CONNALLY, *District Judge*: "The defendants are charged with having conspired to violate (Count I), and with violation (Count II-VI) of the Pure Food and Drug Act. They attack the indictment, and the sections of the statute involved (§ 342(b) and § 343 (a), (b), of Title 21, U.S.C.A.) as too uncertain and indefinite to serve as the basis of a criminal prosecution, and further contend that the prosecution is seeking to give *ex post facto* effect to a regulation of the Department of Agriculture. The matter was argued by counsel orally and at length.

"The defendants are officers of a corporation preparing and selling orange juice. They are charged, at various dates during the calendar year 1959, with having introduced into interstate commerce a food, represented to be pure fresh orange juice, which food was adulterated (within the meaning of § 342(b) (2) and (4), of Title 21, U.S.C.A.), and which was misbranded (within the meaning of § 343 (a), (b) and (i) of Title 21, U.S.C.A.). It is the government's contention that the defendants' product, advertised and labeled as 'pure fresh orange juice,' in fact was not; but that water, sugar, corn syrup, orange juice concentrate, and other ingredients were added thereto.

"The defendants' point is this. They contend that the Secretary of Agriculture for many years has been authorized by statute (§ 341 and § 371(c), of Title 21, U.S.C.A.) to promulgate regulations defining and fixing standards of identity for food products of this nature; that for a number of years, including the year 1959, the orange juice industry had been engaged in efforts to induce the promulgation of such standards, and had worked in conjunction with the Department of Agriculture to this end; and that such standards first were promulgated February 23, 1960, and filed in the Federal Register February 29, 1960.¹ As the offenses with which the defendants are charged all are alleged to have occurred prior to February, 1960, the defendants contend the prosecution is based on the *ex post facto* effect of these regulations. The simple answer is that the defendants are not charged with having violated the new regulations, but with having violated the law in 1959, unsupplemented thereby.

"The defendants next contend that orange juice and pure fresh orange juice are of uncertain meaning. They state that the oranges which they procure from various sources, and the juice squeezed therefrom, is not of uniform sweetness or flavor. They state that to maintain the uniformity of their product certain additives are necessary. Thus, they contend that in the absence of these authoritative standards and definitions no one should be required, at his peril, to determine what would constitute misbranding or adulteration within the statutory definitions. In short, it is contended that until the terms are defined by means of the standard, the pertinent statute is too vague and indefinite to form the basis of a criminal prosecution. I do not think so. Obviously, under the statutory terminology, before a product may be considered as adulterated or misbranded, there must be some standard by which it is to be measured (*United States v. 88 Cases, Birely's Orange Beverage*, 187 F. (2d) 967 (3rd Cir. 1951), *Cert. denied*, 342 U.S. 861 (1952)). The standard here is 'pure fresh orange juice.' Given such term its normal meaning, the indictment charges, in effect, the palming off of

¹ New regulations define and distinguish between "orange juice," "pasteurized orange juice," "sweetened pasteurized orange juice," "reconstituted orange juice," etc.

a product, containing these several additives, as the pure juice recently extracted from oranges. This is sufficiently clear, certain, and definite to allege a violation of the statute.²

"The various attacks upon the indictment and the several counts thereof made by the defendants' motion to dismiss and objections to the indictment are not well taken and are denied.

"Clerk will notify counsel and furnish each of them with a copy hereof.

"Done at Houston, Texas, this 25th day of July, 1960."

The case came on for trial before the court and jury on 3-27-61. The trial was concluded on 4-7-61, with the return by the jury of a verdict of guilty but without the intent to defraud or mislead. The defendants filed motions for arrest of judgment and for a new trial, and on 4-27-61, the court denied such motions. On 5-15-61, the court sentenced the defendants as follows: Gordon E. Van Liew—\$6,000 fine, plus $\frac{1}{3}$ of the costs, imprisonment for 18 months of which 12 months was suspended, and probation for 5 years; Dell Van Liew—\$6,000 fine, plus $\frac{1}{3}$ of the costs, imprisonment for 2 years which was suspended, and probation for 5 years; Verne C. Madison—\$2,000 fine, imprisonment for 1 year which was suspended, and probation for 5 years; and Arthur R. Becker—\$6,000 fine, plus $\frac{1}{3}$ of the costs, imprisonment for 2 years which was suspended, and probation for 5 years. Appeals were taken by the defendants to the United States Court of Appeals for the Fifth Circuit. On 8-5-63, the following opinion was handed down by that court pursuant to which the judgments of conviction were reversed (321 F. 2d 664):

BROWN, *Circuit Judge*: "Our disposition of this appeal makes it necessary for us to consider only one question presented here by Defendants. That question is whether the indictment states an offense against the United States. The Defendants were tried and convicted under a six-count indictment. Count I charged them with conspiring to introduce into interstate commerce adulterated and misbranded food.¹ Counts II through VI charged the substantive offenses of introducing into interstate commerce foods which were adulterated or were misbranded.² We conclude that the defendants were prosecuted under the authority of a faulty indictment. The convictions are accordingly reversed and the cause remanded.

² See *Kordel v. United States*, 335 U.S. 345 (1948); *Sullivan v. United States*, 332 U.S. 689 (1948); and *United States v. Two Bags, etc. of Poppy Seeds, et al.*, 147 F. (2d) 123 (6th Cir. 1945).

¹ Count I of the indictment charged a violation of 18 USCA § 371 in that the Defendants "did unlawfully, knowingly, * * * conspire * * * to * * * introduce into interstate commerce * * * with intent to defraud and mislead, a food which was adulterated within the meaning of * * *" 21 USCA §§ 342(b)(2) and 342(b)(4) "in violation of" 21 USCA §§ 331(a), 333(b) and "to introduce into interstate commerce * * * with intent to defraud and mislead, a food which was misbranded within the meaning of" 21 USCA §§ 343(a), 343(b), 343(i)(2) "in violation of" 21 USCA §§ 331(a), 333(b). In five numbered subparagraphs (I through V), the indictment then charged that this "unlawful conspiracy" was substantially "that Defendants * * * would produce a food represented to be pure orange juice, but which in truth and in fact the Defendants would misbrand and adulterate by adding to orange juice, sugar, water, and other ingredients." Then follows a list of 17 numbered items covering such things as the names and corporate capacity of the various Defendants, where the orange commodity was made, the states to which it was shipped, and several incidents in which Defendants had bought sugar, corn syrup, frozen orange juice concentrate, ascorbic acid, etc. This was followed by a list of 12 numbered overt acts.

² The substantive counts were in two groups.

Counts II, III and V charged shipments which were adulterated. Count II is typical. It charged "that on or about February 21, 1959 * * * [Defendants] with intent to defraud and mislead, did introduce * * * into interstate commerce from Houston, Texas, to Columbia, Missouri, a quantity of food * * * represented to be pure fresh orange juice which food was adulterated within the meaning of" 21 USCA § 342(b)(2) and (4) "in violation of" 21 USCA §§ 331(a), 333(b).

Counts IV and VI charged shipments which were misbranded. Count IV is typical. It charged "that on or about March 2, 1959 * * * [Defendants] with intent to defraud and mislead, did introduce * * * into interstate commerce from Houston, Texas, to New Orleans, Louisiana, a quantity of food * * * represented to be pure fresh orange juice, which food was misbranded within the meaning of" 21 USCA § 343(a), (b), and (i)(2) "in violation of" 21 USCA §§ 331(a), 333(b).

"It is essential to bear in mind that this is a prosecution for economic misbranding or economic adulteration. In the sale of its products through the channels of established, reputable, reliable dairies and the like, there is not the slightest suggestion that Defendants' commodity was unwholesome. On the contrary, the Government conceded that 'there is nothing wrong with their product, not a thing in the world,' and that it 'is just as good and just as palatable and has as many vitamins as freshly squeezed' orange juice. It stipulated that the Defendants' commodity was produced in 'a clean, modern, sanitary plant.' The Court so recognized in its charge³ and while not immediately connected with our disposition, the jury under alternative verdict forms held that the violations were committed by Defendants 'without intent to defraud or mislead.'

"Since we do not reach the question of the sufficiency of the evidence to support the convictions, it is unnecessary to give a detailed statement of the facts. However, they briefly consist of these. Cal-Tex Citrus Juice, Inc. engaged in the business of making an orange drink. The product was composed of freshly squeezed orange juice, concentrated orange juice, water, sugar, and at times glucose and ascorbic acid. The product ordinarily contained these ingredients, and rarely was composed entirely of juice as it comes from an orange. The drink was produced in the Cal-Tex plant in Houston, Texas and shipped to points in Louisiana, Kansas, Missouri, and other states.

"The Defendants used three corporations in their business of producing and distributing this orange drink. Each of the Defendants served in some capacity as officers and directors of each of these three corporations. Cal-Tex was the corporate entity which actually produced the drink. Transportation Leasing, Inc. was used by Defendants to own all of the rolling stock used in the production and delivery of the drink, as well as being used for the purchase and delivery of sugar, frozen concentrate, Vitamin C, and glucose used in the production. Central States Processors, Inc. was another corporation which served as the distributor of the orange drink.

"To the indictment (see notes 1, 2 supra), Defendants filed a 'Motion Raising Defenses and Objections'⁴ plus a motion in arrest of judgment, F. R. Crim. P. 34, which asserted that the indictment did not state facts sufficient to state a criminal offense. The motions pointed out with great particularity the failure of the indictment to allege facts and circumstances regarding misbranding and adulteration. Overruling these motions, the District Court necessarily held the indictment sufficient.

"The guidelines for determining the sufficiency of an indictment have been established for so many years that they are no longer open to question. We do not think it would be helpful to set out the many ways in which the rules have been stated. The rule as stated in 1833 was that 'in all cases the offense must be set forth with clearness, and all necessary certainty, to apprise the accused of the crime with which he stands charged.' *United States v. Mills*, 1833, 7 U.S. (Pet.) 138, 140, 8 L. Ed. 636. Recently, the criteria were reiterated with emphasis in *Russell v. United States*, 1962, 369 U.S. 749, 763, 82 S. Ct. 1038, 8 L. Ed. 2d 240: 'These criteria are, first, whether the indictment "contains the elements of the offense intended to be charged, and sufficiently appraises the defendant of what he must be prepared to meet," and, secondly, "in case any other proceedings are taken against him for a similar offense, whether the record shows with accuracy to what extent he may plead a former acquittal or conviction." [citing cases]. We have given recent, and decisive, recognition to these principles in *Beitel v. United States*, 5 Cir., 1962, 306 F. 2d 665.

³ "It is not disputed that the defendants' plant was sanitary and clean * * * [or that] * * * their product was wholesome and tasty, and apparently very popular, and had received wide public acceptance * * *."

⁴ The Defendants' motion contended, in part, that "the indictment wholly fails to meet the requirements of Criminal Rule 7(c) in that the indictment, and each count thereof, fails to contain a plain, concise and definite written statement of the essential facts constituting the offense charged. The indictment, and each count thereof, rather than alleging a statement of the essential facts constituting the offense charged, alleges only opinions and conclusions. Consequently, the indictment, and each count thereof is too vague and indefinite, and does not sufficiently advise the defendants of the offenses with which they are charged so as to enable them to properly prepare their defense."

"These judicial principles have descended from the Constitution which declares that 'no person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury * * * nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; * * *', and that 'In all criminal prosecutions, the accused shall enjoy the right * * * to be informed of the nature and cause of the accusation; * * *.' U.S. Constitution, Amend V, VI. Responding to these basic demands, F.R. Crim. P. 7(c) provides that 'The indictment * * * shall be a plain, concise and definite written statement of the essential facts constituting the offense charged.'

"Important as are the two most emphasized criteria—(1) notice and (2) double jeopardy—the presentment by a Grand Jury has in our constitutional scheme another basic function. It is the protection to the citizen against unfounded charges. Little may be left open to construction or interpretation of an indictment. If the offense is not plainly stated and is made so only by a process of interpretation, there is no assurance that the Grand Jury would have charged such an offense. The Supreme Court has made this vividly clear in *Smith v. United States*, 1959, 360 U.S. 1, 9, 79 S. Ct. 991, 3 L. Ed. 2d 1041. 'The Fifth Amendment made the [common law rule requiring indictments] mandatory in federal prosecutions in recognition of the fact that the intervention of a grand jury was a substantial safeguard against oppressive and arbitrary proceedings.' And even more recently it has been emphasized in *Russell*. 'To allow the prosecutor, or the court, to make a subsequent guess as to what was in the minds of the grand jury at the time they returned the indictment would deprive the defendant of a basic protection which the guaranty of the intervention of a grand jury was designed to secure. For a defendant could then be convicted on the basis of facts not found by, and perhaps not even presented to, the grand jury which indicted him.' 369 U.S. 749, 770. It was just such principles which led us to confine tolling exceptions to indictments as such, not informations tentatively in lieu of indictments. *Hattaway v. United States*, 5 Cir., 1962, 304 F. 2d 5, 12.

"The first count of the indictment here charged the Defendants with a conspiracy to violate the laws of the United States (note 1, supra), 18 USCA § 374. The attack made on this Count is that it does not state an offense. With this, we are in basic agreement. The indictment alleges the conspiracy in typical terms in that the Defendants 'did unlawfully, knowingly, * * * conspire, confederate, and agree together * * *' to violate laws of the United States. This Count also alleges the manner in which the Defendants worked together, e.g., they were interrelated officers and directors of the various corporations, etc. We may assume that this Count adequately charges the existence of the conspiracy, i.e., agreement, and also some of the means or overt acts by which it was being carried out. But the fault with Count I lies, not in the conspiracy element, but in its failure to meet the standards described above in setting out the manner by which the specified federal laws have been violated.

"Paragraphs 1 and 2 of Count I allege that in furtherance of the conspiracy, the Defendants introduced into interstate commerce a food 'which was adulterated within the meaning of' 21 USCA § 342(b) (2) and (4). These sections state that a food is adulterated '(2) if any substance has been substituted wholly or in part therefor * * * or (4) if any substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight, or reduce its quality or strength, or make it appear better or of greater value than it is.'⁵

⁵ 21 USCA § 342.

"A food shall be deemed to be adulterated—

"* * *

"(b) (1) If any valuable constituent has been in whole or in part omitted or abstracted therefrom; or (2) if any substance has been substituted wholly or in part therefor; or (3) if damage or inferiority has been concealed in any manner; or (4) if any substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight, or reduce its quality or strength, or make it appear better or of greater value than it is."

"Paragraphs 3, 4, and 5 of Count I alleged that the Defendants conspired to introduce into interstate commerce a food 'which was misbranded within the meaning of' 21 USCA § 343 (a), (b), (i) (2).⁶

"At the outset we think it appropriate to point out that the Government's response to this contention confuses the Defendants' constitutional right to know what offense is charged with his need to know the evidentiary details establishing the facts of such offense. As to the latter, the remedy lies in the Motion for Bill of Particulars, F.R. Crim. P. 7(f).

"Here the conspiracy indictment as to adulteration essentially charges only that Defendants 'would produce a food represented to be pure orange juice, but which in truth and in fact the defendants would misbrand and adulterate by adding to orange juice, sugar, water, and other ingredients.'⁷

"But this is not a federal crime unless it contravenes a statute.⁸ The statute specified was § 342(b) (2) and (4). But this charges a variety of unknown actions. Thus, under subparagraph (2) it is adulterated 'if any substance has been substituted wholly or in part *therefor*' (emphasis added). 'Therefor' for what? Subparagraph (2) does not make sense without subparagraph (1) as an antecedent. But subparagraph (1) deals with the omission or abstraction in whole or in part of 'any valuable constituent.'

"For there to be a crime under (2), there must be the substitution of 'any substance' for some 'valuable constituent' plus a substitution of 'any substance' for it, there is simply no crime. But the trial Court cannot guess, and the Defendants may not constitutionally be compelled to guess, what it was (if anything) the Grand Jury had in mind. With the infinite variety of foods now manufactured and processed, the indictment must specify what the 'valuable constituent' is and then charge what 'substance has been substituted * * * therefor.'

"Neither in the conspiracy count nor the substantive counts (note 2, supra) is there even the vaguest hint as to what the 'valuable constituent' is or even that the Defendants 'by adding to orange juice, sugar, water, and other ingredients' were making a substitution 'therefor.'

"The deficiency is even more startling as to § 343(b) (4). There are at least three different kinds of adulterations resulting from 'any substance' that 'has been added * * * mixed or packed therewith.' The first is when the effect is 'to increase its bulk or weight.' Second, when it is to 'reduce its quality or strength.' The third when it is to 'make it appear better or of greater value than it is.'

"Just what was it the Grand Jury thought these Defendants had done? Increased weight? Its bulk? Reduced its quality? Its strength? Or made it appear better or greater? Better or greater than what?⁹

⁶ 21 USCA § 343.

"A food shall be deemed to be misbranded—

"(a) If its labeling is false or misleading in any particular.

"(b) If it is offered for sale under the name of another food."

If it is a food for which there is no standard of identity prescribed by Regulation, it shall be deemed misbranded unless its label bears the common or usual name of the food, and in instances where the commodity "(i) (2) * * * is fabricated from two or more ingredients, the common or usual name of each ingredient; except * * * [that spices, flavorings or colorings need not be specifically designated by name] * * *."

⁷ The 17 items which followed this allegation, see note 1, supra, added nothing since each referred merely to "such adulterated and misbranded food." Neither did the 12 overt acts.

⁸ "There is no evidence to indicate a legislative intent to bar from the market foods which are wholesome merely because they may in fact be of relatively little value. So long as they are not confused with more wholesome products, their presence does no harm." *United States v. 88 Cases*, 3 Cir., 1951, 187 F. 2d 966, 972.

⁹ In argument as to the third point (no ascertainable criterion of guilt in absence of promulgation of administrative standards of identity), the Defendants' brief develops the many mysteries enshrouded in the words of subparagraph (4) barring specific factual allegations:

"Now some pertinent inquiries: What is 'better than it is?' What is 'of greater value than it is?' What is the standard of 'its quality?' By what do you determine 'its strength?' What is the norm for bulk and for weight? Without Standards of Identity how is it possible to know?

"Apply similar questions to the Orange Juice Industry: What is 'orange juice?' What is the norm for Brix acid ratio (Soluble solids to acid) for standard orange juice? Is reconstituted orange juice 'orange juice?' Is blended orange juice 'orange juice?' Is homogenized orange juice 'orange juice?' Is pasteurized orange juice 'orange juice?' Is the mixing of orange juice reconstituted from frozen orange juice

"Under subparagraph (2) incorporating necessarily subparagraph (1) and the introductory alternatives of subparagraph (4) with its still further alternative acts, there is a minimum of eleven possible crimes. Did the Grand Jury intend to charge all eleven? Must the Defendants guess what ones were intended, thereby putting on the Defendants the burden of developing evidentiary detail as to all? To the extent that the queries can be answered by response to a Bill of Particulars, the Defendants may not in fact have been deprived of the right to know what proof they would have to meet. But this is only part of it. For the District Attorney is not the Grand Jury, and he may not determine what it is that the Grand Jury has charged. If the choice of one or more out of many unidentified crimes may be made by

concentrates with orange juice squeezed today illegal? Is the adding of the water necessary to reconstitute concentrated frozen orange juice illegal? In what proportions can the reconstituted juice be used? In what proportions must orange juice squeezed today be used? When orange juice squeezed today is too high in acid content for a proper standard of flavor can concentrates frozen last autumn from sweeter fruits be blended to maintain the necessary standard for taste? In the process of blending juices are you reducing the quality of one type of juice and making another appear better than it is? In blending when are you increasing bulk and weight and when are you not? Without Standards of Identity how is it possible to know!

"Further: To whom must the food 'appear better or of greater value than it is?' Is it the consumer or the Government Inspector? If the consumer, is it the discerning consumer, the indifferent consumer, or the average consumer? If the average consumer, is it the average consumer in the Texas Valley, in the Panhandle, in Missouri, Louisiana, or Kalamazoo? Assume sales to all such areas, must the product meet the differing viewpoints of average consumers in different areas, if not, which controls? Who is to determine in advance, and how, the decision of the 'average consumer' in any of such places? Without Standards of Identity how is it possible to know!"

Judge Hastie, perhaps in more restrained language, undergoes similar judicial travail.

"In the context of the present case, it is our conclusion that the language of Section 403(b)(4) covers a situation in which the challenged process of manufacture was the inclusion of one or more designated ingredients among the primary integral components of a distinct fabricated article. It is not important whether the final product has been achieved by a direct dilution of orange juice, or, as here, by a more complex process of fabrication.

"More difficult questions arise in construing and applying in the requirement of the statute that admixture shall have made the food 'appear better than it is.' To whom must the food appear better than it is? And how is it to be determined whether the food 'appears better than it is'?"

"* * *

"* * * Thus, in the case before us, proof of violation of the statute requires first description and definition of the superior counterpart, and second, proof that the consumer is likely to mistake the inferior for the superior.

"* * *

"* * * It makes little sense to speak of concealment of inferiority except when we add to *what*. (Emphasis the Court's) It makes equally little sense to speak of misleading enhancement of appearance except in relation to some standards which by some reasonable technique has been made relevant.

"* * *

"* * * Again, the conclusion on adulteration is rested squarely on the deception potential of the product sold in relation to a familiar standard.

"* * *

"Legislative consideration of the problem of standards under the Act gives further support to our conclusion that Section 402(b)(4) is not applicable if the allegedly adulterated food is its own only standard. The inability of the government to establish enforceable standards for fabricated foods, considerably hampered the work of enforcement of 1906 Act. The solution to this problem suggested in the course of legislative consideration of the 1938 bill, and in due course adopted, was the enactment of provisions giving the Secretary of Agriculture power to promulgate standards of identity for foods. Such standards were to be imposed only after full and fair hearing.

"Questions of various permissible degrees of dilution which were regarded below as relevant and in issue are peculiarly appropriate for disposition by this administrative technique. Under the required administrative procedure, the whole industry can participate in the determination whether orange-flavored soft drinks are capable of satisfactory definition, how their composition should be restricted, and even whether such a food as orange drink, or any of its variants, should be permitted in commerce. Cf. *Federal Security Administrator v. Quaker Oats Co.*, *supra*.

"* * *

"* * * But as already indicated, we think the procedure used here permits condemnation only where there is confusion with a defined superior product. *If the government would go further it must undertake the formulation of standards of identity in this area.*" (Emphasis supplied.) *United States v. 88 Cases*, 3 Cir., 1951, 187 F. 2d 967, 971.

As emphasizing his remarks, Judge Hastie pointed to the legislative history of a former act (footnote 4):

"These provisions [of the Act] in themselves imply the existence of definitions and standards of identity, since no one can tell when an article is adulterated under them without first determining definitely what constitutes the unadulterated product."

the prosecutor, the presentment by a Grand Jury will have become a useless, historic ritual.¹⁰

"What has been said as to 'adulteration' requires a reversal of the conspiracy count regardless of its sufficiency as to 'misbranding.' The guilty verdict was general. With inquiry forever foreclosed, it is just as likely that the verdict was based on the insufficient charge of adulteration as on misbranding. Consequently, we do not need to determine whether the conspiracy count adequately charges as an object thereof the separate offense of misbranding. § 343 (a), (b), and (i) (2).

"But we do have to face the problem in relation to the substantive counts IV and VI (note 2, *supra*). Except to identify the time, places and quantity of a shipment of '* * * food represented to be pure fresh orange juice,' the indictment merely charges in the words of the statute that 'such food was misbranded within the meaning of' § 343 (a), (b), and (i) (2).

"While the structure of § 343 (a), (b) (see note 6, *supra*) is not so complex as § 342, its relation to the balance of the Act makes a charge merely in statutory terms inadequate. A food¹¹ is misbranded if the label is '(a) * * * false or misleading in any particular,' or the term is '(b) * * * offered for sale under the name of another food.'

"We might assume that 'false' carries its usual meaning. But 'misleading' has its own peculiar statutory meaning.¹² The statute envisages therefore that there might be a misleading label without it being false and vice versa. What is claimed here? That the label was false or misleading? Misleading, but not false? Misleading and false? False, but not misleading? And if misleading, in what way does the particular shipment come within the statutory definition of that term? (See note 12, *supra*.)

"It should be noted that in the substantive counts there is not even a single word about the addition of sugar, water, etc. Nor is there the slightest hint as to what made the label as to the product 'represented to be pure fresh orange juice' misleading or false.

"The shortcomings are even more flagrant as to misbranding from the item being '(b) * * * offered for sale under the name of another food.' That charge involves at least two elements. The first is the real name of the food sold. Second is the name of the other food. What was the name of the food as shipped here? What was the name of the other food? It only gets worse when we look at the conjunctive charge of misbranding under (i) (2). First, that automatically brings into play § 343 (g). More important, it requires that for an item not having a subparagraph (g) standard of identity, the label must show '(1) the common or usual name of the food if any there be * * *.' Did this 'food' as shipped have a common name? If so, what was it? Or was it nameless under the phrase 'if any there be'? While subparagraph (1) was not specifically alleged, it relates directly to subparagraph (2). Subparagraph (2) requires the usual names of ingredients if the food is 'fabricated from two or more ingredients.' Here there was not a single word in the substantive counts charging that the shipment was 'fabricated,' whatever that means. Nor was there any factual statement as to what the 'ingredients' were, or what their usual names were.

"Wrapped upon in the easy generality 'misbranded within the meaning of' § 343 (a), (b), and (i) (2) were not less than six possible, but separate, offenses. Were all six intended? Or only two? Or three? Which ones? This deficiency was not cured by the bill of particulars. For it is not the office of a bill of particulars to ascertain what offense is charged.

"The long and short of it is that the Defendants were not sufficiently apprised of the nature of the charges being made so that they could ade-

¹⁰ For the reasons discussed above, Counts II, III, and V (note 2, *supra*) are also defective in charging the substantive offense of adulteration.

¹¹ Food is defined as "(1) articles used for food or drink for man or other animals, (2) chewing gum, and (3) articles used for components of any such article." 21 USCA § 321(f).

¹² 21 USCA § 321(n) : "If an article is alleged to be misbranded because the labeling is misleading, then in determining whether the labeling is misleading there shall be taken into account (among other things) not only representations made or suggested by statement, word, design, device, or any combination thereof, but also the extent to which the labeling fails to reveal facts material in the light of such representations or material with respect to consequences which may result from the use of the article to which the labeling relates under the conditions of use prescribed in the labeling thereof or under such conditions of use as are customary or usual."

quately prepare a defense. Although evidentiary detail as to a few of the missing pieces was supplied in the Government's answer to the Defendants' motion for a bill of particulars, 'it is the settled rule that a bill of particulars cannot save an invalid indictment.' *Russell v. United States, supra*, at 770; *Beitel v. United States, supra*, at 671. The indictment completely relied on the statutes for stating an offense. An indictment in the language of the offended statute is valid if the words of the statute 'fully, directly and expressly, without any uncertainty or ambiguity, set forth all the elements necessary to constitute the offense intended to be punished.' But if the statute is pleaded in the indictment in general terms 'it must be accompanied with such a statement of the facts and circumstances as will inform the accused of the specific offense, coming under the general description with which he is charged.' *Russell v. United States, supra*, at 765.

"This seems especially necessary as to acts asserted to be criminal offenses under a statutory scheme as complex as this one and in which severe penalties of fine and imprisonment may be exacted even as misdemeanors when the actions taken or omitted are determined to have been done with no 'intent to defraud or mislead.' 21 USCA § 333 (a), (b). When, as this statute permits, innocuous and morally innocent actions may send men to jail for long periods of time because mistakes in processing or labeling, etc., result in economic adulteration, it is essential that the offense (or offenses) be identified and charged in terms which adequately relate the actions to the statute.¹³ This in no sense implies that we require the pleading of evidence.

"For the reasons discussed above, all of the Counts were defective. The judgments of conviction are reversed and the causes remanded with directions to dismiss the indictments.

"REVERSED AND REMANDED."

30475. Orange juice. (F.D.C. No. 42487. S. Nos. 28-512 P et al.)

INDICTMENT RETURNED: 1-13-64, S. Dist. Tex., against Gordon E. Van Liew, Dell Van Liew, Arthur E. Becker, and Verne C. Madison of Houston, Tex.

SHIPPED: 3-2-59 and 7-20-59, from Houston, Tex., to New Orleans and Lake Charles, La.

CHARGE: 403(a)—the labeling of the article contained statements which represented that the article consisted wholly of pure fresh orange juice, which statements were false since the article consisted of pure fresh orange juice mixed with a solution of sugar, water, and other ingredients; 403(b)—the article was offered for sale under the name of another food, pure fresh orange juice; and 403(i) (2)—the label of the article failed to bear the common or usual names of the ingredients of the article.

PLEA: Guilty.

DISPOSITION: 10-15-64. Each defendant was given a sentence of 1 year in prison which was suspended, and was placed on probation for 5 years. In addition, Verne C. Madison was fined \$1,000 and each of the other three defendants was fined \$2,000.

30476. Orange juice. (Inj. No. 404.)

COMPLAINT FOR INJUNCTION FILED: 5-4-61, S. Dist. Tex., against Cal-Tex Citrus Juice, Inc., Houston, Tex., and Gordon E. Van Liew, president, Dell Van Liew, vice president, and Arthur R. Becker, secretary-treasurer.

¹³ These comments rest on the literal terms of the statute which we assume, without deciding, to be valid. In view of our disposition we intimate no view on any of the other contentions of the Defendants. Specifically, we do not reach the claim that in the absence of promulgated standards of identity, there is no lawfully ascertainable criterion of guilt even under cases such as *United States v. Behrman*, 1922, 258 U.S. 280, 42 S. Ct. 303, 66 L. Ed. 619; *United States v. Balint*, 1922, 258 U.S. 250, 42 S. Ct. 301, 66 L. Ed. 604; *United States v. Dotterweich*, 1943, 320 U.S. 277, 64 S. Ct. 134, 88 L. Ed. 48; and see, *Standard Oil Co. of Texas v. United States*, 5 Cir., 1962, 307 F. 2d 120.

NATURE OF BUSINESS: The defendants were engaged in the business of preparing, processing, packaging, selling, and distributing a food represented to be orange juice. In conducting such business, the defendants employed essentially the following method of operation:

A. Quantities of fresh oranges were purchased by the defendants and delivered to the defendants' plant at Houston, Tex.;

B. Upon receipt at the defendants' plant, the oranges were processed to extract the juice, and some water, sugar, and other ingredients were added to and mixed with the juice;

C. Quantities of frozen orange juice concentrate were delivered to the defendants' plant, and were mixed with the juice extracted from the oranges;

D. The orange juice to which water, sugar, and concentrate had been added was placed in tank trucks or in 10-gallon milk cans for bulk distribution or was prepared for distribution by packaging in 1-quart milk bottles or in 1-quart wax cartons labeled in part as follows: "Homogenized Orange Juice";

E. The orange juice to which water, sugar, and concentrate had been added was sold and distributed in the above-described containers by the defendants to customers in the State of Texas and elsewhere under representations that it was a food consisting solely of orange juice.

ALLEGED VIOLATIONS: The complaint alleged that the defendants caused to be introduced and delivered for introduction into interstate commerce an adulterated and misbranded food consisting of orange juice with added water and sugar.

The complaint alleged further that the defendants caused an act to be done with respect to orange juice while held for sale after shipment in interstate commerce, which act resulted in orange juice being adulterated and misbranded, namely, the defendants caused water and sugar to be added to the juice from oranges, and caused such juice with added water and sugar to be sold and distributed as a food consisting solely of orange juice.

The complaint alleged further that the defendants were well aware that their acts were in violation of the law, having been so warned by Food and Drug Inspectors, seizure action, and litigation in the Federal Courts, civil and criminal.

LABEL IN PART: (Btls. and ctns.) "Homogenized Orange Juice."

CHARGE: 402(b) (2)—when shipped and while held for sale, water, sugar, and concentrate had been substituted in part for orange juice; 402(b) (4)—water and sugar had been added to and mixed with so much juice so as to increase its bulk and reduce its quality and strength; 403(a)—the labeling of the article contained false and misleading representations that such food consisted solely of orange juice; 403(b)—the article was offered for sale under the name of another food; and 403(i) (2)—the label of the article failed to bear the common or usual name of each ingredient.

DISPOSITION: On 5-4-61, a temporary restraining order was issued by the court and on 5-25-61, a preliminary injunction was filed. On 6-18-65, a consent decree of permanent injunction was filed which enjoined the defendants from directly or indirectly doing the following acts:

A. Introducing or causing to be introduced or delivering or causing to be delivered for introduction into interstate commerce, any food which is represented as "orange juice," "fresh orange juice," "pure orange juice," or "pure fresh orange juice," or any similar designation, and which purports to be or is in any manner represented as a food consisting solely of orange juice, as such

product is identified in the regulations, and to which has been added water and/or sugar and/or ascorbic acid and/or any orange juice concentrate or any other substance; and

B. Doing, or causing to be done, any act with respect to any food (a) received in interstate commerce, or (b) prepared from oranges or orange juice products received in interstate commerce, to which has been added water and/or sugar and/or ascorbic acid and/or any orange juice concentrate and/or any other substance, and which results in such food being held, represented, sold, or distributed as a food which is designated as "orange juice," "fresh orange juice," "pure orange juice," or "pure fresh orange juice," or any similar designation, and which purports to be or is in any manner represented as a food consisting solely of orange juice, as such product is identified in the regulations; and

C. Introducing or causing to be introduced or delivering or causing to be delivered for introduction in interstate commerce, any product which is represented to be or purports to be an orange juice product for which a standard and definition of identity is in effect, pursuant to 21 U.S.C. § 341, unless such product complies in all respects with such definition and standard of identity; and

D. Doing or causing to be done any act with respect to any food (a) received in interstate commerce or (b) prepared from oranges or orange juice products received in interstate commerce, which results in such food being held, represented, sold, or distributed as an orange juice product for which a definition and standard of identity is in effect, pursuant to 21 U.S.C. § 341 unless such food complies in all respects with such definition and standard of identity.

The injunction provided further that nothing therein was to be deemed as prohibiting the defendants from introducing or causing to be introduced or causing to be delivered for introduction into interstate commerce, any product provided under the orange juice and orange juice products definitions and standards of identity heretofore or hereafter promulgated by the Food and Drug Administration, Department of Health, Education, and Welfare; this included but was not limited to "orange juice," "pasteurized orange juice," "heat processed orange juice," "heat stabilized orange juice," "reconstituted orange juice," or "orange juice from concentrate" as identified by regulations.

VEGETABLES AND VEGETABLE PRODUCTS*

30477. Frozen french-fried potatoes. (F.D.C. No. 51937. S. No. 11-549 B.)

QUANTITY: 1,248 cases, each containing 12 2-lb. bags, at Ontario, Oreg.

SHIPPED: 10-14-65, from Warden, Wash.

LABEL IN PART: (Bag) "Mr. G French Fried Potatoes * * * Distributed by Oregon Frozen Foods, Ontario, Oregon."

LIBELED: On or about 12-3-65, Dist. Oreg.

CHARGE: 403(k)—when shipped, the article contained artificial yellow color, and its labeling failed to state that fact.

DISPOSITION: 2-10-66. Default—ordered delivered to a charitable or nonprofit organization.

30478. Frozen hash brown potatoes. (F.D.C. No. 51178. S. No. 19-417 B.)

QUANTITY: 39 18-lb. cases at San Francisco, Calif.

*See also Nos. 30429, 30472.

SHIPPED: 2-22-65, from Caldwell, Idaho, by J. R. Simplot Co.

LABEL IN PART: (Case) "Simplot Brand Idaho shredded hash brown potatoes packed in Idaho by J. R. Simplot Co., Caldwell Idaho."

LIBELED: 5-11-65, N. Dist. Calif.

CHARGE: 402(a)(3)—contained excessive coliforms, excessive total bacteria, and excessive *E. coli* when shipped.

DISPOSITION: 10-19-65. Default—destruction.

30479. Canned field peas with snaps. (F.D.C. No. 51677. S. No. 32-772 B.)

QUANTITY: 68 cases, each containing 24 1-lb. cans, at Camden, S.C.

SHIPPED: 7-26-65, from Midville, Ga., by R. O. Kelley Cannery, Inc.

LABEL IN PART: (Can) "Kelley's Best Georgia Field Peas With Snaps * * * Packed in U.S.A. By R. O. Kelley Cannery, Inc. Midville, Ga."

LIBELED: 10-7-65, E. Dist. S.C.

CHARGE: 402(a)(3)—contained insect larvae when shipped.

DISPOSITION: 11-29-65. Default—destruction.

30480. Fresh carrots. (F.D.C. No. 51711. S. No. 102-744 B.)

QUANTITY: 36 sacks, of 48 1-lb. bags each, at Cincinnati, Ohio.

SHIPPED: 10-21-65, from Oxnard, Calif., by Ventura Valley Packing Co.

LABEL IN PART: (Sack) "California Carrots Topped Wm. H. Gumpertz Co. Oxnard, Calif." (bag) "Ventura Gold * * * California Carrots Ventura Valley Packing Co. Oxnard, California."

LIBELED: 11-4-65, S. Dist. Ohio; libel amended 11-9-65.

CHARGE: 402(a)(2)(B)—when shipped, the article contained the pesticide chemical, endrin, which was unsafe within the meaning of 408(a), since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on carrots had been prescribed by regulations.

DISPOSITION: 11-23-65. Default—destruction.

30481. Boston lettuce. (F.D.C. No. 51736. S. No. 94-221 B.)

QUANTITY: 98 crates, of 24 heads each, at Cleveland, Ohio.

SHIPPED: 11-9-65, from Glendale, Ariz., by J. A. Wood Co.

LABEL IN PART: (Crate) "Copper Head Vegetables Produce of USA J. A. Wood Co. Phoenix, Arizona."

LIBELED: 12-1-65, N. Dist. Ohio.

CHARGE: 402(a)(2)(B)—when shipped, the article was a raw agricultural commodity and it contained toxaphene, a pesticide chemical, which was unsafe within the meaning of 408(a) since the quantity of such pesticide chemical on the article was not within the limits of the tolerance prescribed by regulations.

DISPOSITION: 12-22-65. Default—destruction.

TOMATOES AND TOMATO PRODUCTS

30482. Canned tomatoes. (F.D.C. No. 51422. S. No. 49-923 B.)

QUANTITY: 747 cases, of 24 1-lb. cans each, at Corning, N.Y.

SHIPPED: 4-19-65, from Pocomoke City, Md., by Albert W. Sisk & Son.

LABEL IN PART: (Can) "Pine Cone Brand * * * Peeled Tomatoes * * * Albert W. Sisk and Son Distributors * * * Preston, Md."

LIBELED: 5-27-65, W. Dist. N.Y.

CHARGE: 402(a)(3)—contained fly eggs and maggots when shipped.

DISPOSITION: 7-20-65. Default—destruction.

30483. Canned tomatoes. (F.D.C. No. 51700. S. No. 50-733 B.)

QUANTITY: 506 cases of 24 1-lb. cans each, at Buffalo, N.Y.

SHIPPED: 8-24-65, from Preston, Md., by Albert W. Sisk & Son.

LABEL IN PART: (Can) "Iona Standard Quality Tomatoes * * * The Great Atlantic & Pacific Tea Co. Inc. N.Y., N.Y., Distributor."

LIBELED: 10-12-65, W. Dist. N.Y.

CHARGE: 403(h)(1)—when shipped, the article fell below the standard of quality for canned tomatoes, since the article contained tomato peel, per pound of canned tomatoes in the container, which covered an area of more than one square inch and its label failed to bear a statement that it fell below such standard.

DISPOSITION: 11-24-65. Consent—claimed by McWilliams Cannery, Inc., Hurlock, Md., for relabeling.

30484. Canned tomatoes. (F.D.C. No. 48436. S. No. 19-064 V.)

QUANTITY: 198 cases, each containing 24 1-lb. cans, at Dallas, Tex.

SHIPPED: 10-16-62, from Buena Park, Calif., by Uddo & Taormina Corp. of California.

LABEL IN PART: (Can) "Progresso Italian Style Peeled Tomatoes With Basil * * * Packed by Uddo & Taormina Corp. of California Buena Park, California."

LIBELED: On or about 1-24-63, N. Dist. Tex.

CHARGE: 403(h)(1)—when shipped, the article fell below the standard of quality for canned tomatoes, since the article contained tomato peel, per pound of canned tomatoes in the container, which covered an area of more than one square inch and its label failed to bear a statement that it fell below such standard.

DISPOSITION: On 2-8-63, Uddo & Taormina Corp. of California having claimed the article, a consent decree of condemnation providing for relabeling was entered. On 6-11-65, the claimant having failed to bring the article into compliance, the court entered an order directing the distribution of the article to charitable institutions for consumption and not resale.

30485. Canned tomatoes. (F.D.C. No. 51661. S. No. 96-067 B.)

QUANTITY: 63 cases, 48 10-oz. cans each, at Omaha, Nebr.

SHIPPED: 7-12-65, from Prairie Grove, Ark., by Kelley Canning Co.

LABEL IN PART: (Can) "Elna Brands Inc. Distributors, Skokie, Ill. Elna Tomatoes."

RESULTS OF INVESTIGATION: Examination showed that the article was in part undergoing progressive decomposition and that the cans were punctured when embossed with the can code at the time of canning.

LIBELED: 9-14-65, Dist. Nebr.

CHARGE: 402(a)(3)—contained a decomposed substance while held for sale; and 403(g)(1)—when shipped, the article failed to conform to the definition

and standard of identity for canned tomatoes in that it was not sealed in a container and so processed by heat as to prevent spoilage.

DISPOSITION: 10-13-65. Default—destruction.

30486. Canned tomatoes. (F.D.C. No. 51397. S. No. 23-423 B.)

QUANTITY: 265 cases, each containing 24 1-lb. cans, at Irving, Tex.

SHIPPED: On or about 4-6-65, from Homestead, Fla., by Homestead Canning Co., Inc.

LABEL IN PART: (Can) "Gold Tip Brand Peeled Tomatoes * * * Taormina Company Donna, Texas Packers."

LIBELED: 6-11-65, N. Dist. Tex.

CHARGE: 402(a)(3)—contained fly parts, fly eggs, and maggots; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 10-7-65. Default—destruction.

30487. Tomato catsup. (F.D.C. No. 52126. S. No. 80-477 B.)

QUANTITY: 151 cases, each containing 24 12-oz. btls., at Covington, Ky.

SHIPPED: 9-29-65 and 10-5-65, from Austin, Ind., by Morgan Packing Co., Inc.

LABEL IN PART: (Btl.) "American Beauty Tomato Catsup * * * Distributed by Morgan Packing Co., Inc., Austin, Ind."

LIBELED: 1-12-66, E. Dist. Ky.

CHARGE: 402(a)(3)—contained decomposed tomato material when shipped.

DISPOSITION: 2-23-66. Default—destruction.

30488. Tomato catsup. (F.D.C. No. 52033. S. No. 80-062 B.)

QUANTITY: 40 cases, each containing 24 12-oz. btls., at Cincinnati, Ohio.

SHIPPED: 11-4-65, from Austin, Ind., by Morgan Packing Co., Inc.

LABEL IN PART: (Btl.) "American Beauty Tomato Catsup * * * Distributed by Morgan Packing Company, Inc., Austin, Ind."

LIBELED: 1-5-66, S. Dist. Ohio.

CHARGE: 402(a)(3)—contained decomposed tomato material when shipped.

DISPOSITION: 3-24-66. Default—destruction.

30489. Tomato catsup and canned tomatoes. (F.D.C. No. 52103. S. Nos. 82-024/5 B.)

QUANTITY: 68 cases, each containing 24 12-oz. btls. of tomato catsup, and 39 cases, each containing 48 10-oz. cans of canned tomatoes, at Covington, Ky.

SHIPPED: Between 10-8-65 and 11-22-65, from Austin, Ind., by Morgan Packing Co., Inc.

LABEL IN PART: (Btl.) "American Beauty Tomato Catsup * * * Distributed by Morgan Packing Co. Inc., Austin, Ind."; and (can) "American Beauty * * * Tomatoes * * * Distributed by Morgan Packing Co., Inc., Austin, Indiana."

LIBELED: 12-28-65, E. Dist. Ky.

CHARGE: 402(a)(3)—contained decomposed tomato material when shipped.

DISPOSITION: 2-23-66. Default—destruction.

SPICES, FLAVORS, AND SEASONING MATERIALS*

30490. Ground ginger and ground mustard. (F.D.C. No. 51021. S. Nos. 3-125 B, 3-127 B.)

QUANTITY: 17 cases, each containing 144 cans, at Nashville, Tenn., in possession of Cumberland Manufacturing Co.

SHIPPED: On 7-21-64 and 12-12-64, from Toledo, Ohio, and St. Louis, Mo.

LABEL IN PART: (Can) "Ground Ginger [or "Mustard"] Windsor Brand * * * One Ounce Net Packed by Cumberland Mfg. Co., Nashville, Tenn."

RESULTS OF INVESTIGATION: Examination showed that the ginger was approximately 17 percent short weight, and the mustard was approximately 10 percent short weight.

The articles had been repacked by the dealer from bulk stock shipped as described above.

LIBELED: 2-10-65, M. Dist. Tenn.

CHARGE: 403(e) (2)—while held for sale, the articles failed to bear a label containing an accurate statement of the quantity of the contents, since the label statement (can) "One Ounce Net Weight" was inaccurate.

DISPOSITION: 3-9-65. Default—delivered to a charitable institution.

30491. French dressing. (F.D.C. No. 51097. S. Nos. 29-405 B, 26-985 B.)

QUANTITY: 20 cases, each containing 4 1-gal. jugs, at Rockford, Ill.

SHIPPED: 1-19-65, from Brodhead, Wis., by Brodhead Pickle Co.

LABEL IN PART: (Jug) "Henne Brand French Dressing * * * Distributed by Henne Food Products Co. Rockford, Illinois."

LIBELED: 3-5-65, N. Dist. Ill.

CHARGE: 403(g) (1)—when shipped, the article failed to conform to the definition and standard of identity for french dressing since it contained less than 35 percent by weight of vegetable oil.

DISPOSITION: 4-14-65. Default—delivered to a charitable institution.

30492. Vanilla. (F.D.C. No. 50666. S. No. 41-949 A.)

QUANTITY: 4 cases, each containing 4 1-gal. jugs, at Oklahoma City, Okla.

SHIPPED: 3-31-64, from Dallas, Tex., by the Van Tone Co., Inc.

LABEL IN PART: "Imperial Brand Bourbon and Mexican Pure Vanilla Made from highest quality Mexican and Bourbon vanilla beans * * * Van Tone Company, Inc., * * * Dallas, Texas."

RESULTS OF INVESTIGATION: Analysis showed the article to consist of a dark brown liquid having a vanilla-like odor and containing added vanillin.

LIBELED: 10-20-64, W. Dist. Okla.

CHARGE: 402(b) (1)—when shipped, the valuable constituent, namely, Mexican and Bourbon vanilla, had been wholly or in part omitted or abstracted from the article; 402(b) (2)—vanillin had been wholly or in part substituted for the article; 402(b) (4)—vanillin had been added to the article, or mixed or packed with it so as to make it appear better or of greater value than it was; 403(a)—the label statement "Bourbon and Mexican Pure Vanilla" was false and misleading as applied to the article which contained added vanillin; 403(e) (2)—the article failed to bear a label containing an accurate statement

*See also No. 30429.

of the quantity of contents; 403(i) (2)—the article was fabricated from two or more ingredients and its label failed to bear the common or usual name of each such ingredient; and 403(k)—the article contained an artificial flavoring, vanillin, and it failed to bear labeling stating that fact.

DISPOSITION: 12-8-64. Default—delivered to a public institution for its use.

30493. Poppyseed. (F.D.C. No. 51716. S. No. 130-651 B.)

QUANTITY: 29 110-lb. bags at San Francisco, Calif., in possession of Joseph Buchwald & Sons, Inc.

SHIPPED: 8-13-64, from The Netherlands.

LIBELED: 11-12-65, N. Dist. Calif.

CHARGE: 402(a) (3)—contained rodent urine; and 402(a) (4)—held under insanitary conditions.

DISPOSITION: 12-22-65. Default—destruction.

30494. Poppyseed. (F.D.C. No. 52200. S. No. 150-459 B.)

QUANTITY: 15 bags, each containing approximately 110 lbs., at Newark, N.J., in possession of Pato's Bakery Products, Inc.

SHIPPED: 11-29-65, from New York, N.Y., after having been imported into the United States from Turkey.

LIBELED: 2-24-66, Dist. N.J.

CHARGE: 402(a) (3)—contained rodent excreta pellets; and 402(a) (4)—held under insanitary conditions.

DISPOSITION: 3-29-66. Default—destruction.

VITAMIN, MINERAL, AND OTHER PRODUCTS OF SPECIAL DIETARY SIGNIFICANCE

30495. Tempo-Tabs tablets, Super Geriatric tablets, and Maridin tablets.
(F.D.C. No. 50555. S. Nos. 104-311 A, 104-314/15 A.)

QUANTITY: 12 90-tablet btls., 24 180-tablet btls., and 12 360-tablet btls. of Tempo-Tabs tablets; 6 btls. of Super Geriatric tablets; and 9 120-tablet btls. and 6 360-tablet btls. of Maridin tablets, at Seattle, Wash.

SHIPPED: Between 10-9-62 and 2-12-64, from N. Hollywood, Calif., by Dynamic Nutritional Products.

LABEL IN PART: (Btl.) "Dynamic 90 Tablets Tempo-Tabs Water and oil-soluble vitamins, minerals and other factors * * * As a dietary supplement * * * Formulated & distributed by Dynamic Nutritional Products North Hollywood, California * * *"; "100 Tablets Dynamic Super Geriatric Vitamin-Mineral Formula A Dietary Food Supplement For Senior Citizens Water- and oil-soluble vitamins, minerals, and other factors * * * Formulated and distributed by Dynamic Products North Hollywood, California * * *"; "Tablets Maridin Containing Natural Iodine * * * Formulated and distributed by Dynamic Nutritional Products North Hollywood, California Directions: One tablet daily as a dietary source of iodine * * * Each tablet provides 0.15 milligram or 1½ times the minimum adult requirement of natural iodine."

ACCOMPANYING LABELING: Pamphlets entitled "Exactly . . . what is a 'Well Balanced' Diet?"; "Keeping Fit After Forty"; and "Fountain of Youth."

RESULTS OF INVESTIGATION: The accompanying literature was shipped at various times with the articles and at various times under separate cover.

LIBELED: 8-26-64, W. Dist. Wash.

CHARGE: Tempo-Tabs tablets, 402(a)(2)(C)—when shipped, the article contained food additives, namely, cobalt and molybdenum, which were unsafe within the meaning of 409, since they and their use and intended use were not in conformity with a regulation or exemption in effect; and 403(a)—the labeling of the article, namely, the bottle label and the pamphlet entitled "Exactly . . . what is a 'Well-Balanced' Diet?" contained false and misleading representations which implied that it was difficult to achieve a well-balanced diet; and that the ingredients, glutamic acid, citrus bioflavonoids, zinc, potassium, magnesium, molybdenum, manganese, cobalt, biotin, lecithin, para-amino-benzoic acid, rutin, lysine, betaine, methionine, inositol, and choline were present in the article as "extra dividends"; and significantly enhanced the nutritive value of the article.

Super Geriatric tablets, 402(a)(2)(C)—when shipped, the article contained food additives, namely, folic acid, in excess of 0.1 milligrams as provided by regulations, and iodine, in excess of 0.15 milligrams as provided by regulations, and menadione and intrinsic factor, which were unsafe within the meaning of 409, since they and their use and their intended use were not in conformity with a regulation or exemption in effect; and 403(a)—the labeling of the article, namely, the bottle label and the accompanying pamphlet entitled "Keeping Fit After Forty" contained false and misleading representations and suggestions that the nutritional value of the article was enhanced by the presence of protein, lysine, methione, magnesium, potassium, and biotin, and by including ox bile, betaine, glutamic acid, molybdenum, cobalt, pepsin, pancreatic substance, rutin, bioflavonoids, inositol, choline, and intrinsic factor, in the article.

Maridin tablets, 403(a)—the labeling of the article, namely, the accompanying pamphlet entitled "Fountain of Youth" contained false and misleading representations that the article contained .5 milligram of iodine per day, whereas the article provided .15 milligram of iodine per day.

The libel alleged also that certain other articles and the Maridin tablets and Super Geriatric tablets were misbranded under the provisions of the law applicable to drugs as reported in notices of judgment on drugs and devices, No. 8332.

DISPOSITION: 11-9-64. Default—destruction.

30496. Infa-Soy formula. (F.D.C. No. 50574. S. No. 30-498 A.)

QUANTITY: 496 cases, each containing 12 15½-oz. cans, at San Leandro, Calif.

SHIPPED: 8-3-64, from Madison, Tenn.

RESULTS OF INVESTIGATION: Examination showed that the article was decomposed, the contents were coagulated, and the article contained viable micro-organisms.

LIBELED: 9-11-64, N. Dist. Calif.

CHARGE: 402(a)(3)—contained a decomposed substance and was otherwise unfit for food, while held for sale.

The article was alleged also to be misbranded under the provisions of the law applicable to drugs as reported in notices of judgment on drugs and devices, No. 8287.

DISPOSITION: 10-7-64. Default—destruction.

30497. Infa-Soy formula. (F.D.C. No. 50568. S. No. 61-788 A.)

QUANTITY: 2,309 cases, each containing 12 15½-oz. cans, at La Sierra, Calif.

SHIPPED: 6-26-64, from Madison, Tenn.

LIBELED: 9-4-64, S. Dist. Calif.

CHARGE: 402(a)(3)—contained a decomposed substance and was unfit for food by reason of the coagulation of the contents and the presence of viable micro-organisms, while held for sale.

The libel alleged also that the article was misbranded under the provisions of the law applicable to drugs as reported in notices of judgment on drugs and devices, No. 8288.

DISPOSITION: 10-23-64. Default—destruction.

MISCELLANEOUS FOODS

30498. Lemon flavored crystals. (F.D.C. No. 52153. S. No. 119-096 B.)

QUANTITY: 10 cases, each containing 24 10-oz. btls., at Garden City, N.Y.

SHIPPED: 11-23-65, from Toms River, N.J., by Crystal Foods, Inc.

LABEL IN PART: (Btl.) "Makes One Gallon * * * Lemon Queen Brand True Lemon Taste Crystals Vitamin C Enriched Just Add Water Dissolves Instantly * * * Ingredients Pure dehydrated lemon juice, dextrose, citric acid, Vitamin C, calcium phosphate, essential lemon oil and U.S. Certified Food Color * * * Lemon Queen Co. New York."

RESULTS OF INVESTIGATION: Examination showed the article to consist of a white crystalline material having a lemon-like odor and flavor.

LIBELED: 1-27-66, E. Dist. N.Y.

CHARGE: 403(a)—when shipped, the term "Lemon Queen," the name of the article "True Lemon Taste Crystals," the label vignette depicting a whole lemon, and other label statements, in the setting in which they were presented, which suggested and implied that the article when dissolved in water made lemon juice, or the equivalent thereof, were false and misleading, since they were contrary to fact; 403(c)—the article was an imitation of another food, and its label failed to bear, in type of uniform size and prominence, the word "imitation" and, immediately thereafter, the name of the food imitated, namely, dehydrated lemon juice; and 403(j)—the article was represented as being a food for special dietary use by reason of being "vitamin C enriched," and its label failed to bear such information concerning its vitamin properties as the Secretary had determined to be and by regulations prescribed as, necessary in order fully to inform purchasers as to its value for such use, since its label failed to bear a statement of the proportion of the minimum daily requirement for vitamin C supplied by such food when consumed in a specified quantity during a period of one day.

DISPOSITION: 3-3-66. Default—destruction.

30499. Reconstituted lemon juice. (F.D.C. No. 51620. S. No. 120-678 B.)

QUANTITY: 140 cases, each containing 12 1-qt. btls., at Linden, N.J.

SHIPPED: 6-18-65, from Brooklyn, N.Y., by Arthur Mitchell Food Products, Inc.

LABEL IN PART: (Btl.) "Lemon Tree Reconstituted Lemon Juice * * * Lemon Tree is made from Concentrated Lemon Juice. Blended to perfection with

distilled water to equal freshly squeezed Lemon. * * * Packed by Arthur Mitchell Food Products, Inc. Brooklyn, New York."

RESULT OF INVESTIGATION: Examination showed that the article was a mixture of reconstituted lemon juice and a substance other than reconstituted lemon juice.

LIBELED: 8-16-65, Dist. N.J.

CHARGE: 402(b)(1)—when shipped, a valuable constituent, namely, reconstituted lemon juice, had been wholly or in part omitted from the article; 402(b)(2)—a substance other than reconstituted lemon juice had been substituted wholly or in part for reconstituted lemon juice; and 403(a)—the name of the article "Reconstituted Lemon Juice" and other label statements were false and misleading, since they represented contrary to fact that the article was reconstituted lemon juice.

DISPOSITION: 2-9-66. Default—ordered delivered to a charitable institution for use and not for resale.

30500. Dough conditioner. (F.D.C. No. 51702. S. No. 50-278 B.)

QUANTITY: 15 100-lb. bags at Johnstown, Pa.

SHIPPED: 7-15-65, from Chicago, Ill.

LIBELED: 10-18-65, W. Dist. Pa.; libel amended 10-25-65.

CHARGE: 402(a)(3)—contained insects and insect parts while held for sale.

DISPOSITION: 11-12-65. Default—destruction.

INDEX TO NOTICES OF JUDGMENT F.N.J. NOS. 30401 TO 30500

PRODUCTS

	N.J. No.		N.J. No.
Animal Vimin With Kelp-----	30463	Egg(s), frozen-----	30443-30457
Barley -----	30428	shell -----	30458, 30459
Beans, navy, dried-----	30429	yolks, frozen, salted-----	30460
Boston lettuce-----	30481	Feeds and grains-----	30461-30463
Butter -----	30434-30439	Feed, medicated-----	30462
Buttermilk, dried-----	30442	Fish and shellfish-----	30464-30470
Carrots, fresh-----	30480	Flavors. See Spices, flavors, and	
Catsup, tomato-----	30487-30489	seasoning materials.	
Cereals and cereal products----	30401-	Flour -----	30405-30414
	30433	self-rising -----	30405, 30408
Cheese -----	30440, 30441	Food additive violations-----	30461,
monterey jack-----	30440		30462, 30495
Corn, canned-----	30472	French dressing-----	30491
Cornmeal ----- ¹	30401-30405	Fruits and vegetables----	30471-30489
mix -----	30427	fruit, canned-----	30471, 30472
self-rising -----	30405	miscellaneous fruit products_	30473-
Crabmeat, frozen-----	30470		30476
Dairy products-----	30434-30442	tomatoes and tomato prod-	
Donut mix-----	30411	ucts -----	30482-30489
Dough conditioner-----	30500	vegetables and vegetable prod-	
		ucts -----	30477-30481

¹(30401) Prosecution contested.

	N.J. No.		N.J. No.
Garbanzos (chickpeas), dried	30429	Pineapple, canned	30472
Ginger, ground	30490	Popcorn, popped	30402
Grains. <i>See</i> Feeds and grains.		unpopped	30429-30432
Grapefruit, canned	30472	Pop-Ees (baked corn product)	30402
Infra-Soy formula	30496, 30497	Poppyseed	30493, 30494
Karmalettes (candy)	30402	Potatoes, french-fried, frozen	30477
Kor-Chees (baked corn product)	30402	hash brown, frozen	30478
Kor-Niks (baked corn product)	30402	Rice	30407, 30421-30426, 30429
Lemon flavored crystals	30498	puffed	30427
juice, reconstituted	30499	Shell eggs	30458, 30459
Lettuce, Boston	30481	Shellfish. <i>See</i> Fish and shellfish.	
Lobster tails, frozen	30466, 30467	Shrimp, frozen	30468
Maridin tablets	30495	Spices, flavors, and seasoning ma-	
Milk, nonfat, dry	30442	terials	30490-30494
Mix, cornmeal	30427	Sturgeon, frozen	30465
Donut	30411	Sugar beet pulp, dried	30461
Mustard, ground	30490	Super Geriatric tablets	30495
Navy beans, dried	30429	Tempo-Tabs tablets	30495
Nonfat dry milk	30442	Tomato(es), canned	30482-
Oat flakes	30433		30486, 30489
Oatmeal	30433	catsup	30487-30489
Oats, rolled	30433	Tunafish, canned	30469
Orange juice	^{2 3 4} 30473-30476	Vanilla	30492
Paprika	30429	Vegetables. <i>See</i> Fruits and	
Peaches, canned	30471	vegetables.	
Peas, field, canned, with snaps	30479	Vitamin, mineral, and other prod-	
split, green	30429	ucts of special dietary signi-	
Perch fillets	30464	ficance	30495-30497
Pesticide chemical violations	30420,	Wheat	30415-30420
	30428, 30480, 30481		

SHIPPERS, MANUFACTURERS, AND DISTRIBUTORS

	N.J. No.		N.J. No.
A & P, Great, Tea Co., Inc.:		Baker & Williams:	
canned tomatoes	30483	unpopped popcorn, green split	
canned tunafish	30469	peas, dried garbanzos (chick-	
Albin Elevator Co.:		peas), dried navy beans, rice,	
wheat	30418	and paprika	30429
Almacenes Maritimos:		Banquet Better Foods:	
flour	30410	monterey jack cheese	30440
Alver Bros. Co.:		Beatrice Foods Co.:	
unpopped popcorn	30431	butter	30437
Alver Popcorn Co.:		Becker, A. R.:	
unpopped popcorn	30432	orange juice	^{2 3 4} 30473-30476
American Crystal Sugar Co.:		Boat. <i>See</i> Jeanne D'Arc.	
dried sugar beet pulp	30461		

²(30473) Injunction action dismissed without prejudice.
³(30474) Convictions reversed upon appeal. Contains opinions of District Court and Court of Appeals.
⁴(30476) Injunction issued.

	N.J. No.		N.J. No.
Bon Ton Foods :		Delight Egg Farms, Inc. :	
frozen eggs-----	30450	frozen eggs-----	30454
Brinkley & Co., Inc. :		Denver Elevators :	
flour-----	30413	wheat-----	30415
Britt Brokerage Co., Inc. :		Des Moines Food, Inc. :	
rice-----	30426	frozen eggs-----	30443
Brodhead Pickle Co. :		Dynamic Nutritional Products :	
french dressing-----	30491	Tempo-Tabs tablets, Super	
Bryson, D. H. :		Geriatric tablets, and Mari-	
shell eggs-----	30458	din tablets-----	30495
Buchwald, Joseph, & Sons, Inc. :		Economy Stores, Inc. :	
poppyseed-----	30493	self-rising cornmeal and self-	
Burlington Elevator Co. :		rising flour-----	30405
wheat-----	30417	Elk Grocery Co., Inc. :	
Cal-Tex Citrus Juice, Inc. :		self-rising flour-----	30408
orange juice----- ² 30473, ⁴ 30476		Elna Brands, Inc. :	
Carlisle Poultry & Egg Associates,		canned tomatoes-----	30485
Inc. :		Evergreen Hatchery & Elevator :	
frozen eggs-----	30455	medicated feed-----	30462
Cassaro, Salvatore :		Evergreen Hatchery, Inc. :	
flour-----	30406	medicated feed-----	30462
Cassaro, Inc. :		Fleishman & Co. :	
flour-----	30406	frozen eggs-----	30450
Center Milk Products Co. :		Fleischmann's :	
butter-----	30439	frozen eggs-----	30444
Colvert Dairy Products Co. :		Frye, A. R. :	
butter-----	30437	self-rising flour-----	30408
Concordia Creamery Co. :		Gavora, George :	
butter-----	30437	cornmeal, baked corn products,	
Continental Grain Co. :		and popped popcorn-----	30402
barley-----	30428	Gramling Canning Co., Inc. :	
Covadonga Warehouse :		canned peaches-----	30471
flour and Donut mix-----	30411	Greely Elevator Co. :	
flour-----	30412	wheat-----	30416
Crystal Foods, Inc. :		Green Pastures Egg & Poultry	
lemon flavored crystals-----	30498	Corp. :	
Cumberland Manufacturing Co. :		frozen eggs-----	30457
ground ginger and ground mus-		Gumpertz, Wm. H., Co. :	
tard-----	30490	fresh carrots-----	30480
Dade Bonded Warehouse, Inc. :		Harrah, L. E. :	
dried buttermilk and nonfat		self-rising flour-----	30408
dry milk-----	30442	Hartley Creamery :	
Dairy Fresh Products Co. :		butter-----	30434
frozen eggs-----	30448	Henderson Distributors, Ltd. :	
Davis, L. A. :		frozen lobster tails-----	30466
puffed rice and cornmeal mix--	30427	Henne Food Products Co. :	
Davis Wholesale Co., Inc. :		french dressing-----	30491
puffed rice and cornmeal mix--	30427		

²(30473) Injunction action dismissed without prejudice.⁴(30476) Injunction issued.

	N.J. No.		N.J. No.
Hilo Transportation & Terminal Co., Ltd. :		Morgan Packing Co., Inc. :	
rice -----	30423	tomato catsup-----	30487, 30488
Hitch Grain Co. :		tomato catsup and canned to-	
wheat -----	30420	matoes -----	30489
Homestead Canning Co., Inc. :		Nash-Finch Co. :	
canned tomatoes-----	30486	unpopped popcorn-----	30432
Hurst Products, Inc. :		Nelson Ricks Creamery Co. :	
frozen salted egg yolks-----	30460	monterey jack cheese-----	30440
Janes, L. M. :		Northeast Iowa Cooperative Creameries Association :	
cornmeal ----- ¹	30401	butter -----	30435
Jeanne D'Arc (boat) :		Obrecht, W. F. :	
perch fillets-----	30464	cornmeal -----	30404
Johnson, T. J. :		Obrecht, George F., Co. <i>See</i>	
puffed rice and cornmeal mix--	30427	Obrecht, W. F.	
Joseph, I. S., Co., Inc. :		Oregon Frozen Foods :	
dried sugar beet pulp-----	30461	frozen french-fried potatoes--	30477
Kelley Canning Co. :		P & B Cartage & Warehouse, Inc. :	
canned tomatoes-----	30485	canned tunafish-----	30469
Kelley, R. O., Cannery, Inc. :		Pan Alaska Fisheries, Inc. :	
canned field peas with snaps--	30479	frozen crabmeat-----	30470
Kohl, N., Grocer Co. :		Pato's Bakery Products, Inc. :	
flour -----	30409	poppyseed -----	30494
Langdon Creamery Co. :		Pine Lane Poultry Farm :	
butter -----	30438	frozen eggs-----	30452, 30457
Lemon Queen Co. :		Roberts Frozen Foods :	
lemon flavored crystals-----	30498	frozen eggs-----	30445
Lundsing & Co., Inc. :		Rosenberg & Son Produce Co. :	
oatmeal, oat flakes, and rolled		frozen eggs-----	30446
oats -----	30433	Ruark, T. L., & Co., Inc :	
Madison, V. C. :		flour and rice-----	30407
orange juice----- ³	30474, 30475	St. Francis Mercantile Equity Exchange :	
Mais, William K., Inc. :		wheat -----	30419
frozen eggs-----	30456	Salt Lake Egg Co. <i>See</i> Bryson, D. H.	
Maize Industries :		Schreiber, L. D., Cheese Co. :	
cornmeal, baked corn products, and popped popcorn-----	30402	cheddar cheese-----	30441
Mantia, John, & Sons Co., Inc. :		Sexton, John, & Co. :	
perch fillets-----	30464	rice -----	30424
Marbo Quality Foods, Inc. :		Shade, A. A. :	
rice -----	30421	frozen eggs-----	30449
Mayfair Markets :		Shores, H. H. :	
cheddar cheese-----	30441	cornmeal ----- ¹	30401
Mayfresh Kitchens :		Shores, H. G., & Son, Inc. :	
cheddar cheese-----	30441	cornmeal ----- ¹	30401
Mitchell, Arthur, Food Products, Inc. :			
reconstituted lemon juice-----	30499		

¹(30401) Prosecution contested.
³(30474) Convictions reversed upon appeal. Contains opinions of District Court and Court of Appeals.

	N.J. No.		N.J. No.
Simplot, J. R., Co.:		Unity Warehouse Co., Inc.:	
frozen hash brown potatoes---	30478	rice -----	30425
Singleton Packing Corp.:		Van Liew, Dell:	
frozen shrimp-----	30468	orange juice----- ^{2 3 4}	30473-30476
Sisk, Albert W., & Son:		Van Liew, G. E.:	
canned tomatoes-----	30482,	orange juice----- ^{2 3 4}	30473-30476
	30483	Van Tone Co., Inc.:	
Standard Brands, Inc.:		vanilla -----	30492
frozen eggs-----	30444	Ventura Valley Packing Co.:	
Sumner Packing Co., Inc.:		fresh carrots-----	30480
frozen eggs-----	30451	Ward, C. W.:	
Taormina Co.:		monterey jack cheese-----	30440
canned tomatoes-----	30486	Watson, C. H., Jr.:	
Tripoli Cooperative Creamery		flour and rice-----	30407
Co.:		Weibley, V. W.:	
butter -----	30435	frozen eggs-----	30455
Truckers Terminal Elevator Co.:		Wood, J. A., Co.:	
wheat -----	30418	Boston lettuce-----	30481
Twin Rivers Co., Inc.:		Wouka Distributing Co., Inc.:	
frozen eggs-----	30453	frozen lobster tails-----	30467
Uddo & Taormina Corp. of Cali-		Zenith-Godley Co.:	
fornia:		butter -----	30434,
canned tomatoes-----	30484		30435

²(30473) Injunction action dismissed without prejudice.

³(30474) Convictions reversed upon appeal. Contains opinions of District Court and Court of Appeals.

⁴(30476) Injunction issued.

2N2

U.S. Department of Health, Education, and Welfare
FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD,
DRUG, AND COSMETIC ACT

U.S. DEPT. OF AGRICULTURE
NATIONAL AGRICULTURAL LIBRARY

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]
30501-30600

NOV 15 1966

FOODS

CURRENT SERIAL RECORDS

The cases reported herewith were instituted in the United States district courts by United States attorneys, acting upon reports submitted by the Department of Health, Education, and Welfare. They involve foods which were alleged to be adulterated or misbranded within the meaning of the Act, when introduced into and while in interstate commerce, while held for sale after shipment in interstate commerce, or when delivered otherwise than for pay after receipt in interstate commerce. These cases involve (1) seizure proceedings in which decrees of condemnation were entered after default, or consent; (2) criminal proceedings which were terminated upon pleas of guilty and nolo contendere; and (3) an injunction proceeding in which a decree of preliminary injunction was issued. The seizure proceedings are civil actions taken against the *goods* alleged to be in violation, and the criminal and injunction proceedings are against the *firms* or *individuals* charged to be responsible for violations.

In addition, there are also reported suits for injunction and declaratory judgment instituted by the manufacturer of special purpose foods and allied products, which suits were dismissed and dismissal affirmed upon appeal.

Published by direction of the Secretary of Health, Education, and Welfare.

JAMES L. GODDARD, *Commissioner of Food and Drugs.*

WASHINGTON, D.C., *October 14, 1966.*

CONTENTS

	Page		Page
Cereals and cereal products.....	600	Fruits and vegetables—Continued	
Flour.....	600	Tomatoes and tomato	
Miscellaneous cereals and		products.....	616
cereal products.....	603	Meat products and poultry.....	618
Eggs.....	608	Oils and fats.....	619
Fish and shellfish.....	610	Spices, flavors, and seasoning	
Fruits and vegetables.....	612	materials.....	619
Canned fruit.....	612	Vitamin, mineral, and other	
Fresh fruit.....	613	products of special dietary	
Miscellaneous fruit products..	613	significance.....	622
Vegetables and vegetable		Miscellaneous foods.....	627
products.....	614	Index.....	629

SECTIONS OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT INVOLVED IN
ALLEGED VIOLATIONS REPORTED IN F.N.J. NOS. 30501-30600

Adulteration, Section 402(a) (1), the article contained a poisonous or deleterious substance which might render it injurious to health; Section 402(a) (2) (B), the article was a raw agricultural commodity and contained a pesticide chemical which was unsafe within the meaning of Section 408(a); Section 402(a) (2) (C), the article contained a food additive which was unsafe within the meaning of Section 409; Section 402(a) (3), the article consisted in whole or in part of a filthy, putrid, or decomposed substance, or it was otherwise unfit for food; Section 402(a) (4), the article had been prepared, packed, or held under insanitary conditions whereby it might have become contaminated with filth or might have been rendered injurious to health; Section 402(b) (1), a valuable constituent had been in whole or in part omitted or abstracted from the article; Section 402(b) (2), a substance had been substituted wholly or in part for the article; Section 402(b) (4), a substance had been added to the article or mixed or packed therewith so as to increase its bulk or weight, or reduce its quality or strength, or make it appear better or of greater value than it was; Section 408(a), a poisonous or deleterious pesticide chemical, or a pesticide chemical not generally recognized, among qualified experts, as safe for use, added to a raw agricultural commodity, was deemed to be unsafe because no tolerance or exemption from the requirement of a tolerance for such pesticide chemical in or on the raw agricultural commodity had been prescribed by the Secretary of Health, Education, and Welfare; and Section 409, a food additive was deemed to be unsafe because the food additive and its use or intended use failed to conform to the terms of an effective exemption or because there was not in effect, or the food additive and its use or intended use failed to be in conformity with, a regulation prescribing conditions for safe use.

Misbranding, Section 403(a), the labeling of the article was false and misleading; Section 403(e) (2), the article was in package form, and it failed to bear a label containing an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count; Section 403(g) (1), the article purported to be or was represented as a food for which a definition and standard of identity had been prescribed by regulations and it failed to conform to such definition and standard; Section 403(h) (1), the article purported to be or was represented as a food for which a standard of quality had been prescribed by regulations, and its quality fell below such standard; and Section 403(i) (2), the article was not subject to the provisions of Section 403(g) and the article was fabricated from two or more ingredients, and its label failed to bear the common or usual name of each such ingredient.

CEREALS AND CEREAL PRODUCTS

FLOUR

30501. Flour, biscuit mix, and cornmeal. (F.D.C. No. 51222. S. Nos. 72-544 A, 72-547/8 A, 72-550 A, 72-552/3 A, 72-555 A.)

INFORMATION FILED: 7-7-65, E. Dist. La., against George W. Groetsch, t/a George W. Groetsch Wholesale Grocer, New Orleans, La.

ALLEGED VIOLATION: Between 1-14-64 and 9-10-64, while quantities of flour, biscuit mix, and cornmeal were being held for sale after shipment in interstate commerce, the defendant caused flour to be held in a truck body that was ac-

cessible to insects, and flour, biscuit mix, and cornmeal to be held in a building that was accessible to insects and rodents, and caused such articles to be exposed to contamination by insects and rodents, which acts resulted in the articles being adulterated.

CHARGE: 402(a)(3)—contained tribolium and sawtoothed grain beetles, lesser grain borers, pupæ, larvæ, cast skins, and rodent excreta pellets; and 402(a)(4)—held under insanitary conditions.

PLEA: Nolo contendere.

DISPOSITION: 1-5-66. \$7,000 fine, \$4,000 of which was suspended, and probation for 1 year.

30502. Flour. (F.D.C. No. 52115. S. No. 69-089 B.)

QUANTITY: 53 100-lb. bags, at Brockton, Mass., in possession of Liberty Baking Co.

SHIPPED: 11-5-65, from Buffalo, N.Y.

LIBELED: 1-3-66, Dist. Mass.

CHARGE: 402(a)(3)—contained rodents and rodent nests, and was rodent gnawed; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 3-21-66. Default—ordered destroyed or delivered to a public or charitable institution for use as animal feed.

30503. Flour. (F.D.C. No. 52081. S. No. 69-163 B.)

QUANTITY: 281 100-lb. bags, at Fall River, Mass., in possession of Ann Dale Products, Inc.

SHIPPED: 7-15-65, from New Ulm, Minn.

LIBELED: 12-13-65, Dist. Mass.

CHARGE: 402(a)(3)—contained insects, insect larvae, and insect parts; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 3-21-66. Default—ordered destroyed or delivered to a public or charitable institution for use as animal feed.

30504. Flour. (F.D.C. No. 52020. S. Nos. 102-859/60 B.)

QUANTITY: 147 100-lb. bags, at Vernon, Calif., in possession of Flour, Inc.

SHIPPED: On 2-7-64 and 2-11-64, from Minneapolis, Minn.

LIBELED: 12-17-65, S. Dist. Calif.

CHARGE: 402(a)(3)—contained insects, insect larvae, and insect parts; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 1-5-66. Consent—claimed by Archer, Daniels, Midland Co., Minneapolis, Minn., and denatured for use as animal feed.

30505. Flour. (F.D.C. No. 52040. S. No. 126-628 B.)

QUANTITY: 68 25-lb. bags at West Plains, Mo., in possession of Richard Bros. Warehouse.

SHIPPED: 11-12-65, from Lincoln, Nebr.

LIBELED: 1-11-66, W. Dist. Mo.

CHARGE: 402(a)(3)—contained rodent urine, and was rodent gnawed; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 2-23-66. Default—destruction.

30506. Flour. (F.D.C. No. 51912. S. Nos. 62-598/99 B, 62-615/20 B.)

QUANTITY: 689 25-lb. bags and 90 10-lb. bags at Princeton, N.C., in possession of Gurley Milling Co., Inc.

SHIPPED: Between 9-17-64 and 9-21-65, from Stuarts Draft and Staunton, Va.

LIBELED: 12-3-65, E. Dist. N.C.

CHARGE: 402(a)(3)—contained insects; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 1-19-66. Consent—claimed by Gurley Milling Co., Inc., Princeton, N.C., for conversion into animal feed.

30507. Flour. (F.D.C. No. 52116. S. No. 155-036 B.)

QUANTITY: 34 bales, each containing 5 5-lb. bags, plus 4 5-lb. bags, at Seguin, Tex., in possession of C. W. Traeger Wholesale.

SHIPPED: 10-13-65, from Kansas City, Mo.

LIBELED: 1-3-66, W. Dist. Tex.

CHARGE: 402(a)(3)—contained insects; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 3-2-66. Default—destruction.

30508. Flour. (F.D.C. No. 51878. S. No. 26-274 B.)

QUANTITY: 20 100-lb. bags at Charlestown, Mass.

SHIPPED: 9-20-65, from Buffalo, N.Y.

LIBELED: 11-12-66, Dist. Mass.

CHARGE: 402(a)(3)—contained insect larvae, insect webbing, and insect excreta, while held for sale.

DISPOSITION: 3-21-66. Default—ordered destroyed or delivered to a public or charitable institution for use as animal feed.

30509. Flour. (F.D.C. No. 51739. S. No. 71-507 B.)

QUANTITY: 500 100-lb. bags, at Rochester, N.Y., in possession of Baltimore & Ohio Railroad.

SHIPPED: 10-18-65, from St. Paul, Minn.

RESULTS OF INVESTIGATION: The article was held in a rodent-infested rail car.

LIBELED: 12-1-65, W. Dist. N.Y.

CHARGE: 402(a)(3)—contained rodent urine and was rodent gnawed; and 402(a)(4)—held under insanitary conditions, while in and while held for sale after shipment in interstate commerce.

DISPOSITION: 1-10-66. Consent—denatured for use as animal feed.

30510. Self-rising flour and grits. (F.D.C. No. 51918. S. Nos. 64-447/8 B, 64-454 B.)

QUANTITY: 14 bales, each containing 5 10-lb. bags of flour, 182 25-lb. bags of flour, and 23 bales, each containing 12 2-lb. bags of grits, at Clinton, N.C., in possession of Clinton Wholesale Co.

SHIPPED: Between 8-26-65 and 9-23-65, from Staunton, Va., and Chattanooga, Tenn.

LIBELED: 12-6-65, E. Dist. N.C.

CHARGE: 402(a)(3)—contained insects; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 2-3-66. Default—destruction.

30511. Self-rising flour. (F.D.C. No. 52250. S. Nos. 87-370/71 B.)

QUANTITY: 80 25-lb. bags of self-rising flour, and 64 25-lb. bags of plain flour, at Wagoner, Okla., in possession of Beard Wholesale.

SHIPPED: Between 2-8-66 and 2-22-66, from McPherson, Kans.

LIBELED: 3-17-66, E. Dist. Okla.

CHARGE: 402(a)(3)—contained rodent urine and was rodent gnawed; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 4-15-66. Default—destruction.

MISCELLANEOUS CEREALS AND CEREAL PRODUCTS

30512. Rice. (F.D.C. No. 51818. S. No. 59-229 B.)

QUANTITY: 54 100-lb. bags, at Miami, Fla., in possession of Henry Lee Co.

SHIPPED: 7-30-65, from Abbeville, La.

LIBELED: 11-4-65, S. Dist. Fla.

CHARGE: 402(a)(4)—held under insanitary conditions.

DISPOSITION: 2-3-66. Default—destruction.

30513. Rice. (F.D.C. No. 51914. S. Nos. 61-012/13 B.)

QUANTITY: 117 25-lb. bags of rice at Brunswick, Ga., in possession of Leotis & Co., Inc.

SHIPPED: Between 7-2-65 and 9-23-65, from Abbeville and Rayne, La.

LIBELED: 12-6-65, S. Dist. Ga.

CHARGE: 402(a)(3)—contained insects, insect larvae, and insect parts; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 1-5-66. Default—delivered to a charitable institution for use as animal feed.

30514. Rice. (F.D.C. No. 51944. S. No. 69-086 B.)

QUANTITY: 34 100-lb. bags, at Boston, Mass., in possession of Bowker Storage & Distributing Co., Inc.

SHIPPED: 12-17-64, from Stuttgart, Ark.

LIBELED: 12-9-65, Dist. Mass.

CHARGE: 402(a)(3)—contained insects, insect larvae, and insect parts; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 3-21-66. Default—ordered destroyed or delivered to a public or charitable institution for use as animal feed.

30515. Rice. (F.D.C. No. 52119. S. Nos. 75-743 B, 75-745 B.)

QUANTITY: 306 10-lb. bags, at Chicago, Ill., in possession of Japan Food Corp.

SHIPPED: On 11-12-65 and 11-24-65, from Stuttgart, Ark.

LIBELED: 1-5-66, N. Dist. Ill.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 2-8-66. Default—destruction.

30516. Rice. (F.D.C. No. 51730. S. Nos. 94-552/4 B.)

QUANTITY: 37 100-lb. bags, and 14 25-lb. bags, at Toledo, Ohio, in possession of Toledo Terminal Warehouse, Inc.

SHIPPED: Between 12-14-62 and 4-14-65, from Memphis, Tenn.

LIBELED: 11-24-65, N. Dist. Ohio.

CHARGE: 402(a)(3)—contained insects, insect parts, and (100-lb. bags) insect excreta; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: The articles were claimed by Rivianna Foods, Inc., Memphis, Tenn., and a consent decree of condemnation was entered on 1-9-66, providing for denaturing the articles. Since the claimant abandoned its right under the consent decree on 1-17-66 a default decree was entered ordering destruction of the goods.

30517. Wheat. (Inj. No. 501.)

COMPLAINT FOR INJUNCTION FILED: 1-11-65, Dist. N. Dak., against Lamb Elevator Corp., Michigan, N. Dak., R. F. Lamb, president, and A. C. Lamb, manager.

CHARGE: The complaint for injunction alleged that the defendants were engaged in operating at Michigan, N. Dak., a grain storage facility consisting of two wooden crib-type elevators without concrete foundations, for the storage and distribution of wheat for human consumption, and that the defendants were shipping in interstate commerce wheat which was adulterated within the meaning of 402(a)(3) and 402(a)(4), in that the wheat consisted in part of a filthy substance by reason of the presence in the wheat of rodent excreta pellets and rodent urine, and was being held at the defendants' grain storage facility at Michigan, N. Dak., under insanitary conditions whereby it may have become contaminated with filth.

The complaint alleged further that the insanitary conditions of the defendants' grain storage facility at Michigan, N. Dak., resulted from and consisted of the following:

(A) In the elevator designated as the East House:

- (1) Several rodent entryways visible from the outside of the elevator;
- (2) Wooden sheeting of the elevator which has been rodent gnawed;
- (3) A heavy concentration of rodent excreta pellets on the main floor of the elevator and in some areas of the main floor as many as 200 pellets per square foot;
- (4) Sacks of screenings stored on the main floor which are covered with rodent excreta pellets; and
- (5) Rodent tracks in the surface of 6 of the 17 bins in the elevator.

(B) In the elevator designated as the West House:

- (1) Several rodent entryways visible from the outside of the elevator;
- (2) Wooden sheeting of the elevator which has been rodent gnawed;
- (3) A heavy concentration of rodent excreta pellets on the main floor as many as 200 pellets per square foot;
- (4) A heavy concentration of rodent excreta pellets on catwalks above several of the bins;
- (5) Spring-type traps which contained approximately 10 dead rodents each on a catwalk above the bin designated as #31;
- (6) Rodent tracks on the surface of each of the 17 bins in the elevator;
- (7) Live mice in some bins;

(8) Rodent excreta pellets in the wheat in the 13 of the 17 bins to which access for investigation could be obtained, with a range estimated at from 25 pellets per square foot to 100 pellets per square foot along the perimeter of the bins, and a proportionately higher number in the corners of most bins; and

(9) Rodent nests in 3 bins.

DISPOSITION: On 1-11-65, a temporary restraining order was issued by the court. On 4-8-65, after a hearing by the court, a preliminary injunction was entered which, until further order of the court, enjoined the defendants from directly or indirectly: (1) introducing or causing to be introduced and delivering or causing to be delivered for introduction into interstate commerce in violation of the Act wheat for human consumption, and any similar article of food held at the defendants' grain storage facility at Michigan, N. Dak., unless and until:

(a) the elevators were thoroughly cleaned and renovated and rendered suitable for use in connection with the storage of wheat for human consumption and any similar article of food, namely, unless and until all rodent filth was removed from the elevators; all rodent infestation in and about the elevators was eliminated; the means of ingress and egress of the elevators by rodents were closed; and any similar insanitary conditions which might result in contamination of wheat for human consumption or any similar articles of food while held at the elevators were eliminated, and

(b) all of the wheat which was on hand at the elevators at the time the elevators were cleaned, renovated and rendered suitable for the storage of food for human consumption, was destroyed, denatured for use as animal food, or cleaned and otherwise reconditioned under the supervision of a duly authorized representative of the Food and Drug Administration, Department of Health, Education, and Welfare, and thus brought into compliance with the provisions of the Act;

(2) introducing or causing to be introduced and delivering or causing to be delivered for introduction into interstate commerce in violation of the Act wheat for human consumption and any similar article of food which was adulterated within the meaning of 402(a)(3), in that it consisted in part of a filthy substance, and within the meaning of 402(a)(4), in that it had been held under insanitary conditions whereby it may have become contaminated with filth.

30518. Wheat. (F.D.C. No. 51474. S. No. 9-319 B.)

QUANTITY: 120,000 lbs. at Spokane, Wash.

SHIPPED: 7-28-65, from Wyndmere, N. Dak., by Farmers Grain & Fuel Co.

LIBELED: 8-12-65, E. Dist. Wash.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 8-23-65. Consent—claimed by Bunge Corp., New York, N.Y., and denatured.

30519. Wheat. (F.D.C. No. 51471. S. Nos. 10-139/40 B.)

QUANTITY: 221,000 lbs. at Spokane, Wash.

SHIPPED: 7-21-65, from Linton, N. Dak., by Farmers Elevator Co.

LIBELED: 8-5-65, E. Dist. Wash.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 8-12-65. Consent—claimed by Atwood-Larson Co., Portland, Oreg., and converted to animal feed.

30520. Wheat. (F.D.C. No. 51450. S. No. 30-097 B.)

QUANTITY: 91,040 lbs. at Minneapolis, Minn.

SHIPPED: 6-21-65, from Calvin, N. Dak., by Peavey Co.

LIBELED: 7-12-65, Dist. Minn.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 7-22-65. Consent—claimed by Peavey Co., Minneapolis, Minn., and denatured.

30521. Wheat. (F.D.C. No. 51449. S. No. 107-862 B.)

QUANTITY: 120,000 lbs. at Minneapolis, Minn.

SHIPPED: 6-17-65, from Randolph, S. Dak., by South Dakota Wheat Growers.

LIBELED: 7-1-65, Dist. Minn.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 7-14-65. Consent—claimed by South Dakota Wheat Growers, and denatured.

30522. Wheat. (F.D.C. No. 51427. S. No. 8-309 B.)

QUANTITY: 130,680 lbs. at Kansas City, Kans.

SHIPPED: 5-28-65, from Reynolds, Nebr., by Farmers Union Cooperative Elevator Association.

LIBELED: 6-9-65, Dist. Kans.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 7-13-65. Consent—claimed by Farmers Union Cooperative Marketing Association. Reconditioned and segregated; 27,710 lbs. denatured.

30523. Wheat. (F.D.C. No. 52028. S. No. 11-726 B.)

QUANTITY: 93,560 lbs. at Seattle, Wash.

SHIPPED: 12-13-65, from Louisville, Mont., by Everett Potter.

LIBELED: 12-29-65, W. Dist. Wash.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 12-30-65. Consent—claimed by Cargill, Inc., Minneapolis, Minn., and denatured for use as animal feed.

30524. Wheat. (F.D.C. No. 51158. S. No. 7-783 B.)

QUANTITY: 117,000 lbs. at Kansas City, Kans.

SHIPPED: 3-27-65, from Byron, Nebr., by Farmers Cooperative Elevator Co.

LIBELED: 4-6-65, Dist. Kans.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 5-7-65. Consent—claimed by Farmers Cooperative Elevator Co., Byron, Nebr. Segregated; 23,230 lbs. denatured.

30525. Wheat. (F.D.C. No. 51182. S. Nos. 5-917 B, 5-919 B, 6-555/6 B, 8-475/6 B, 95-764/5 B.)

QUANTITY: 504,000 lbs. at Kansas City, Kans.

SHIPPED: 4-20-65, from Plymouth, Nebr., by Farmers Cooperative Elevator Co.

LIBELED: 5-10-65, Dist. Kans.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 6-2-65. Consent—claimed by the Farmers Union Cooperative Marketing Association, and denatured for use as animal feed.

30526. Wheat. (F.D.C. No. 51193. S. Nos. 28-758/60 B.)

QUANTITY: 90,000 lbs. at Minneapolis, Minn.

SHIPPED: 4-28-65, from Sterling, N. Dak., by Sterling Farmers Equity Elevator Co.

LIBELED: 5-24-65, Dist. Minn.

CHARGE: 402(a)(2)(B)—when shipped, the article contained a pesticide chemical, a mercurial compound, which was unsafe within the meaning of 408(a), since no tolerance or exemption for such pesticide chemical on wheat had been prescribed by regulations.

DISPOSITION: 6-4-65. Consent—claimed by Sterling Farmers Equity Elevator Co. Segregated; 5,770 lbs. destroyed and remainder decharacterized.

30527. Wheat. (F.D.C. No. 51187. S. No. 5-693 B.)

QUANTITY: 120,000 lbs. at Kansas City, Kans.

SHIPPED: 4-21-65, from Lebanon, Nebr., by Lebanon Cooperative Equity Exchange.

LIBELED: 5-13-65, Dist. Kans.

CHARGE: 402(a)(3)—contained insect-damaged wheat kernels when shipped.

DISPOSITION: 6-11-65. Consent—claimed by the Farmers Union Cooperative Marketing Association, and denatured for use as animal feed.

30528. Wheat. (F.D.C. No. 51701. S. No. 96-636 B.)

QUANTITY: 106,010 lbs. at Kansas City, Kans.

SHIPPED: 9-24-65, from Wall, S. Dak., by Tri-State Milling Co.

LIBELED: 10-8-65, Dist. Kans.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 11-5-65. Consent—claimed by Wolcott & Lincoln, Inc., Kansas City, Kans., and denatured for use as animal feed.

30529. Wheat. (F.D.C. No. 52038. S. Nos. 148-912 B, 152-434 B.)

QUANTITY: 108,500 lbs. at Minneapolis, Minn.

SHIPPED: 12-13-65, from Hensel, N. Dak., by Hensel Farmers Union Elevator.

LIBELED: 1-7-66, Dist. Minn.

CHARGE: 402(a)(2)(B)—when shipped, the article was a raw agricultural commodity and contained a pesticide chemical, a mercurial compound, which was unsafe within the meaning of 408(a), since no tolerance or exemption

from the requirement of a tolerance for such pesticide chemical on wheat has been prescribed by regulations.

DISPOSITION: 2-4-66. Consent—destruction.

30530. Mixed yellow and white corn. (F.D.C. No. 50935. S. No. 18-603 B.)

QUANTITY: 48 100-lb. bags at Honolulu, Hawaii.

SHIPPED: 11-24-64, from Madera, Calif.

LIBELED: 1-27-65, Dist. Hawaii.

CHARGE: 402(a)(3)—contained insect larvæ, insect pupæ, insect fragments, and insect parts while held for sale.

DISPOSITION: 4-6-65. Default—destruction.

EGGS

30531. Frozen eggs. (F.D.C. No. 52110. S. No. 150-602 B.)

QUANTITY: 95 30-lb. cans at Brooklyn, N.Y.

SHIPPED: 12-3-65, from Perth Amboy, N.J., by Adler Egg Co.

LABEL IN PART: (Can lid) "Royal Crown Whole Eggs * * * Packed by Adler Egg Company * * * Perth Amboy, N.J."

LIBELED: On or about 12-28-65, E. Dist. N.Y.

CHARGE: 402(a)(3)—contained decomposed eggs when shipped.

DISPOSITION: 3-8-66. Default—destruction.

30532. Frozen eggs. (F.D.C. No. 52215. S. No. 18-656 B.)

QUANTITY: 175 30-lb. cans at Honolulu, Hawaii.

SHIPPED: 1-3-66, from La Habra, Calif., by Olson Bros., Inc.

LIBELED: 2-8-66, Dist. Hawaii.

CHARGE: 402(a)(3)—contained decomposed eggs when shipped.

DISPOSITION: 2-23-66. Default—delivered to a public institution for use as animal feed.

30533. Frozen eggs. (F.D.C. No. 52101. S. No. 64-671 B.)

QUANTITY: 84 30-lb. cans at Washington, D.C.

SHIPPED: 12-9-65, from outside the District of Columbia, by unknown shipper.

LABEL IN PART: (Can) "Frozen Whole Eggs * * * Packed by Louisiana Hatcheries, Inc. Hammond, Louisiana."

LIBELED: 12-29-65, Dist. Columbia.

CHARGE: 402(a)(3)—contained decomposed eggs when shipped.

DISPOSITION: 2-18-66. Default—destruction.

30534. Frozen eggs. (F.D.C. No. 52120. S. No. 64-670 B.)

QUANTITY: 384 30-lb. cans at Baltimore, Md.

SHIPPED: 11-11-65, from Weimar, Tex., by McCall Sanders Egg Co.

LABEL IN PART: (Can) "Frozen Whole Eggs * * * Packed by McCall Sanders Weimar Texas."

LIBELED: 12-30-65, Dist. Md.

CHARGE: 402(a)(1)—when shipped, the article contained an added poisonous and deleterious substance, Salmonella micro-organisms, which may have rendered it injurious to health; and 402(a)(3)—contained decomposed eggs.

DISPOSITION: 1-26-66. Default—destruction.

30535. Frozen eggs. (F.D.C. No. 52148. S. No. 64-680 B.)

QUANTITY: 92 30-lb. cans at Washington, D.C.

SHIPPED: 1-4-66, from Baltimore, Md., by Buffington & Ward, Inc.

LABEL IN PART: (Can) "Pasteurized Frozen Whole Eggs * * * Packed by Olson Bros. Inc. La Habra, Calif."

LIBELED: 1-18-66, Dist. Columbia.

CHARGE: 402(a)(3)—contained decomposed eggs when shipped.

DISPOSITION: 3-14-66. Default—destruction.

30536. Frozen egg whites. (F.D.C. No. 52185. S. No. 67-734 B.)

QUANTITY: 98 30-lb. cans at Portsmouth, Va.

SHIPPED: 1-7-66, from Baltimore, Md., by Buffington & Ward, Inc.

LABEL IN PART: (Can) "Frozen Egg Whites Packed by Olson Brothers, Inc. La Habra, Calif."

LIBELED: 2-16-66, E. Dist. Va.

CHARGE: 402(a)(1)—when shipped, the article contained an added poisonous and deleterious substance, Salmonella micro-organisms, which may have rendered it injurious to health.

DISPOSITION: 3-4-66. Default—destruction.

30537. Frozen eggs. (F.D.C. No. 52175. S. No. 65-732 B.)

QUANTITY: 22 30-lb. cans at Portsmouth, Va.

SHIPPED: 1-7-66, from Baltimore, Md., by Buffington & Ward, Inc.

LABEL IN PART: (Can) "Pasteurized Whole Eggs * * * Packed by Olson Bros., Inc. La Habra, Calif."

LIBELED: 2-9-66, E. Dist. Va.

CHARGE: 402(a)(3)—contained decomposed eggs when shipped.

DISPOSITION: 3-4-66. Default—destruction.

30538. Frozen eggs. (F.D.C. No. 51704. S. Nos. 12-575 B, 14-334 B.)

QUANTITY: 259 30-lb. cans at Denver, Colo.

SHIPPED: 7-13-65, from Salt Lake City, Utah, by Salt Lake Egg Co.

LABEL IN PART: (Can) "Whole Egg * * * Salt Lake Egg Co. * * * Salt Lake City, Utah Pasteurized."

LIBELED: 10-28-65, Dist. Colo.

CHARGE: 402(a)(3)—contained decomposed eggs when shipped.

DISPOSITION: 1-27-66. Default—destruction.

30539. Frozen eggs. (F.D.C. No. 52114. S. No. 65-712 B.)

QUANTITY: 48 30-lb. cans at Baltimore, Md.

SHIPPED: 11-30-65, from Bloomsburg, Pa., by Country Best Foods, Agway, Inc.

LABEL IN PART: (Can lid) "Pasteurized Whole Egg Packed by Blue Ribbon Prod. Los Angeles."

LIBELED: 12-29-65, Dist. Md.

CHARGE: 402(a)(3)—contained decomposed eggs when shipped.

DISPOSITION: 1-28-66. Default—destruction.

30540. Frozen eggs. (F.D.C. No. 52128. S. No. 64-673 B.)

QUANTITY: 76 30-lb. cans at Baltimore, Md.

SHIPPED: 11-17-65, from Hammond, La., by Louisiana Hatcheries, Inc.

LABEL IN PART: (Can) "Frozen Whole Eggs * * * Packed by Louisiana Hatcheries, Inc. Hammond, Louisiana."

LIBELED: 1-10-66, Dist. Md.

CHARGE: 402(a)(3)—contained decomposed eggs when shipped.

DISPOSITION: 2-2-66. Default—destruction.

30541. Dried egg solids. (F.D.C. No. 50744. S. No. 65-471 A.)

QUANTITY: 10 drums at Los Angeles, Calif.

SHIPPED: 9-12-64, from Wakefield, Nebr., by Milton G. Waldbaum Co.

LABEL IN PART: (Drum) "200 lbs. Dried Whole Egg Solids Stabilized Packed by Milton G. Waldbaum Co. Wakefield, Nebr."

LIBELED: 11-19-64, S. Dist. Calif.

CHARGE: 402(a)(1)—when shipped, the article contained an added poisonous and deleterious substance, Salmonella micro-organisms which may have rendered it injurious to health.

DISPOSITION: 1-20-65. Consent—claimed by Milton G. Waldbaum Co., and reconditioned.

FISH AND SHELLFISH

30542. Frozen ocean perch fillets. (F.D.C. No. 51931. S. No. 68-993 B.)

QUANTITY: 119 ctns., each containing 5 10-lb. pkgs. of individually cello-wrapped fish fillets, at Gloucester, Mass.

SHIPPED: These fillets were prepared by Empire Fish Co., Gloucester, Mass., from fish caught by the fishing vessel "Villanova" in the waters of the Gulf of St. Lawrence outside the territorial limits of the United States and landed and unloaded on or about 11-16-65, at Gloucester, Mass.

LABEL IN PART: (Pkg.) "Ten Pounds Net Weight Empire Brand Ocean Perch Packed by Empire Fish Company, Gloucester, Mass."

LIBELED: 12-7-65, Dist. Mass.

CHARGE: 402(a)(3)—when shipped and while held for sale, contained decomposed fish fillets.

DISPOSITION: 3-21-66. Default—ordered to be destroyed or donated to a public or charitable institution for use as animal feed.

30543. Fresh crabmeat. (F.D.C. No. 50207. S. No. 63-968 B.)

QUANTITY: 218 cans, each can containing 1 lb., at Baltimore, Md.

SHIPPED: 12-7-65, from Valona, Ga., by Sea Garden Seafoods, Inc.

LABEL IN PART: (Can) "Sea Garden Crabmeat * * * Sea Garden Seafoods, Inc., Valona, Ga."

LIBELED: On or about 12-14-65, Dist. Md.

CHARGE: 402(a)(4)—prepared under insanitary conditions when shipped.

DISPOSITION: 1-14-66. Default—destruction.

30544. Frozen breaded scallops and frozen breaded shrimp. (F.D.C. No. 51907, S. Nos. 96-404/5 B.)

QUANTITY: 37 cases, each containing 6 4-lb. pkgs. of scallops and 20 cases, each containing 6 4-lb. pkgs. of shrimp, at Kansas City, Mo., in possession of Sun-Ra Frozen Foods, Inc.

SHIPPED: On 7-14-65 and 7-15-65, from Boston, Mass., and New York, N.Y.

LABEL IN PART: (Pkg.) "Sun-Ra Frozen Foods * * * Breaded Individually Frozen Scallops [or "Breaded Fan Tail Shrimp"] * * * Ready to Fry * * * Packed by Sun-Ra Frozen Foods, Inc., Kansas City, Mo."

RESULTS OF INVESTIGATION: The article was shipped unbreaded in bulk lots and subsequently breaded by the dealer and packed into packages as described above.

LIBELED: 12-6-65, W. Dist. Mo.

CHARGE: 402(a)(3)—contained insects and insect parts while held for sale.

DISPOSITION: 2-3-66. Default—destruction.

30545. Frozen breaded scallops. (F.D.C. No. 52023. S. Nos. 101-573/4 B.)

QUANTITY: 36 cases, of 12 10-oz. pkgs. each, at National City, Calif.

SHIPPED: Between 10-16-65 and 11-12-65, from St. Simons Island, Ga., by Seapak Corp.

LABEL IN PART: (Pkg.) "Sea Pak Breaded Deep Sea Scallops * * * Seapak Corporation, St. Simons Island, Georgia."

LIBELED: 12-23-65, S. Dist. Calif.

CHARGE: 402(a)(3)—contained excessive coliforms, *E. coli*, and a high total bacterial count; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 1-18-66. Default—destruction.

30546. Frozen shrimp. (F.D.C. No. 52186. S. No. 58-860 B.)

QUANTITY: 54 cases, each containing 3 ctns., each ctn. containing 100 unlabeled plastic bags, at Atlanta, Ga.

SHIPPED: On unknown date, from Atlanta, Ga., by Mr. Shrimp, Inc., to Queens Village, N.Y., and reshipped 1-6-66, to Atlanta, Ga.

LABEL IN PART: (Ctn.) "100 Servings Cooked and Cleaned Shrimp * * * Each Packet Contains 5 Shrimp Packed From 21-25 Count Pearl Quality White Shrimp * * * Queens Village, New York."

LIBELED: 2-14-66, N. Dist. Ga.

CHARGE: 402(a)(3)—contained excessive coliforms, a high total bacterial count, and excessive coagulase positive staphylococci; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 3-21-66. Default—destruction.

30547. Frozen shrimp. (F.D.C. No. 52025. S. No. 94-223 B.)

QUANTITY: 20 31-lb. cases of 3 ctns. each, each ctn. containing 100 unlabeled 5-unit bags, at Cleveland, Ohio.

SHIPPED: 9-22-65, from Atlanta, Ga., by Mr. Shrimp, Inc.

LABEL IN PART: (Ctn.) "100 servings cooked and cleaned shrimp—each packet contains 5 hand peeled shrimp—Howard Johnson Company, Queens Village, New York."

LIBELED: 12-29-65, N. Dist. Ohio.

CHARGE: 402(a)(3)—contained *E. coli*, excessive coliforms, and a high total bacterial count; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 1-21-66. Default—destruction.

30548. Frozen shrimp. (F.D.C. No. 51735. S. Nos. 108-984 B, 109-339/40 B.)

QUANTITY: 152 6-lb. boxes at Hopkins, Minn.

SHIPPED: 10-5-65 and 10-21-65, from Tampa, Fla.

LIBELED: 12-1-65, Dist. Minn.

CHARGE: 402(a)(3)—contained decomposed shrimp while held for sale.

DISPOSITION: 1-14-66. Default—destruction.

FRUITS AND VEGETABLES

CANNED FRUIT

30549. Canned cherries. (F.D.C. No. 51745. S. No. 93-394 B.)

QUANTITY: 120 cases, of 6 6-lb. 8-oz. cans each, at Canton, Ohio.

SHIPPED: 9-23-65, from St. Joseph, Mich., by Musselman-Dwan Div., Pet Milk Co.

LABEL IN PART: (Can) "Plee-Zing Pitted Tart Red Cherries Unsweetened
* * * Distributed * * * By Plee-Zing Inc., Evanston, Ill."

LIBELED: 12-7-65, N. Dist. Ohio.

CHARGE: 403(h)(1)—when shipped, the quality of the article fell below the standard of quality for canned cherries, since more than 15 percent by count of the cherries in the container were blemished with scab, hail injury, discoloration, scar tissue, or other abnormality, and its label failed to bear a statement that it fell below such standard.

DISPOSITION: 1-4-66 and 1-12-66. Default—delivered to a charitable organization.

30550. Preserved figs. (F.D.C. No. 52014. S. Nos. 93-457/8 B.)

QUANTITY: 20 cases, each containing 12 15-oz. jars, and 40 cases, each containing 12 10-oz. jars, at Cleveland, Ohio.

SHIPPED: 8-24-65, from Friendswood, Tex., by J. R. May Co.

LABEL IN PART: (Jar) "Haserot's Fancy—Texas Preserved Figs The Haserot Company Cleveland, Ohio, Distributors."

LIBELED: 12-14-65, N. Dist. Ohio.

CHARGE: 402(a)(3)—when shipped, contained insects and insect parts.

DISPOSITION: 1-10-66. Default—destruction.

30551. Preserved figs. (F.D.C. No. 51727. S. No. 41-239 B.)

QUANTITY: 98 cases, each containing 12 10-oz. jars, at Birmingham, Ala.

SHIPPED: 9-15-65, from League City, Tex., by the J. Garth Co.

LABEL IN PART: (Jar) "Garth Famous Old Fashion Preserved Figs * * *
Packed by The J. Garth Co., League City, Texas."

LIBELED: 11-19-65, N. Dist. Ala.

CHARGE: 402(a) (3)—when shipped, contained insects and insect fragments.

DISPOSITION: 12-21-65. Default—destruction.

FRESH FRUIT

30552. Chilled fresh peaches. (F.D.C. No. 52070. S. Nos. 102-216/17 B.)

QUANTITY: 491 cases, each containing 12 16-oz. jars plus 147 16-oz. jars; and
98 cases, each containing 12 26-oz. jars plus 161 26-oz. jars, at Los Angeles,
Calif.

SHIPPED: 6-1-65 and 6-30-65, from Winter Haven, Fla.

RESULTS OF INVESTIGATION: Examination showed that the article was under-
going progressive decomposition.

LIBELED: 1-26-66, S. Dist. Calif.

CHARGE: 402(a) (3)—contained decomposed peaches while held for sale.

DISPOSITION: 2-24-66. Default—destruction.

MISCELLANEOUS FRUIT PRODUCTS

30553. Orange juice. (F.D.C. No. 52338. S. No. 60-781 B.)

QUANTITY: 124 cases, each containing 12 btls., at Clarksburg, W. Va.

SHIPPED: 3-9-66, from Austell, Ga. by Citra-Sweet Juices, Inc.

LABEL IN PART: (Cap on btl.) "Citra Gold 100% Florida Orange Juice * * *
Reconstituted Orange Juice Sweetened Sorbic Acid added to retard spoil-
age * * * Citra-Sweet Juices, Inc., General Offices, Lakeland, Fla."

LIBELED: 3-25-66, N. Dist. W. Va.

CHARGE: 403(g) (1)—when shipped, the article purported to be and was rep-
resented as orange juice, a food for which a definition and standard of identity
has been prescribed by regulations, and it failed to conform to such definition
and standard in that it contained sorbic acid, an added sweetener and recon-
stituted orange juice, which are not permitted as ingredients of orange juice
in such definition and standard.

DISPOSITION: 4-7-66. Consent—delivered to charitable institutions.

30554. Citron in brine. (F.D.C. No. 49609. S. No. 50-073 X.)

QUANTITY: 172 350-lb. bbls. at San Francisco, Calif.

SHIPPED: 12-11-63, from Adjuntas, P.R., by Jose A. Rullan.

LIBELED: 1-27-64, N. Dist. Calif.

CHARGE: 402(a) (3)—contained insects, insect larvae, and insect parts when
shipped.

DISPOSITION: 3-12-64. Consent—claimed by Steinhardter & Nordlinger, Inc.,
New York, N.Y. Reconditioned; 21,707 lbs. destroyed.

VEGETABLES AND VEGETABLE PRODUCTS

30555. Dried black-eyed peas, garbanzos (chickpeas), and pigeon peas. (F.D.C. No. 50375. S. Nos. 4-609/11 A.)

INDICTMENT RETURNED: 9-23-64, against James P. Spoto, t/a Northwestern Canning & Packing Co., Seffner, Fla., and Americus P. Spoto, plant manager.

ALLEGED VIOLATION: Between 1-10-64 and 3-3-64, while quantities of black-eyed peas, garbanzos (chickpeas), and pigeon peas were being held for sale after shipment in interstate commerce, the defendants caused the articles to be held in a building that was accessible to rodents and to be exposed to contamination by rodents, which acts resulted in the articles being adulterated.

CHARGE: 402(a)(3)—contained rodent urine, and 402(a)(4)—held under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 7-6-65. James P. Spoto—\$900 fine, of which \$600 was suspended, and probation for 1 year; Americus P. Spoto—\$600 fine, of which \$400 was suspended, and probation for 1 year.

30556. Canned green beans. (F.D.C. No. 51848. S. No. 63-523 B.)

QUANTITY: 572 cases, each containing 24 1-lb. 12-oz cans, at Salem, Va.

SHIPPED: 8-13-65, from Whitesburg, Tenn., by White & Sloat Canning Co.

LABEL IN PART: (Can) "White's Stringless Cut Green Beans * * * Packed by White and Sloat Canning Co. Whitesburg, Tenn."

LIBELED: 10-28-65, W. Dist. Va.

CHARGE: 403(h)(1)—when shipped, the quality of the article fell below the standard of quality for canned cut green beans prescribed by regulations, since the deseeded pods of the article contained more than 0.15 percent by weight of fibrous material, and its label failed to bear a statement that it fell below such standard.

DISPOSITION: 12-1-65. Consent—claimed by White & Sloat Canning Co., for relabeling.

30557. Frozen green beans. (F.D.C. No. 51880. S. No. 10-116 B, 10-294 B.)

QUANTITY: 690 cases, each containing 24 pkgs., at Butte, Mont.

SHIPPED: 3-2-65, from Tacoma, Wash., by Kelley Farquhar & Co.

LABEL IN PART: (Pkg.) "7 Valleys Dist. by 7 Valley Foods, Seattle, Washington, Quick Frozen Short Cut Green Beans Net Weight 9 Ounces." (The "9" was over stamped "8" on some packages and was illegible on some packages.)

RESULTS OF INVESTIGATION: Examination showed that the article consisted of flat beans of varying sizes and round cut green beans ranging in size from $\frac{1}{4}$ inch to approximately 2 inches. Stems were also present.

LIBELED: 11-12-65, Dist. Mont.

CHARGE: 403(a)—when shipped, the name "Short Cut Green Beans" and label vignette depicting round green beans of uniform size without stem ends were false and misleading as applied to a product consisting of flat green beans of varying lengths and round cut green beans, some with stems attached, ranging in size from $\frac{1}{4}$ inch to approximately 2 inches; and 403(e)(2)—the article failed to bear a label containing an accurate statement of quantity of the contents, since the label statement (on some packages) "Net Weight 9 Ounces" was inaccurate.

DISPOSITION: 12-14-65. Default—delivered to public institutions.

30558. Mung beans. (F.D.C. No. 51491. S. No. 57-287 B.)

QUANTITY: 122 100-lb. bags, at Baltimore, Md., in possession of McHenry Operating Co.

SHIPPED: 9-1-64, from Pacasmayo, Peru.

LIBELED: 6-14-65, Dist. Md.

CHARGE: 402(a) (3)—contained rodent excreta pellets; and 402(a) (4)—held under insanitary conditions.

DISPOSITION: 7-23-65. Consent—claimed by L. N. White & Co., Inc., New York, N.Y. Segregated and reconditioned; 79 bags destroyed.

30559. Dried pinto beans, Great Northern beans, and saltines. (F.D.C. No. 50371. S. Nos. 55-026/8 X.)

INFORMATION FILED: 11-6-64, E. Dist. Ky., against Carter & Sadler Wholesale Co., Inc., and Clarence Sadler, president, Pikeville, Ky.

ALLEGED VIOLATION: Between 9-6-63 and 9-18-63, while quantities of pinto beans, Great Northern beans, and saltines were being held for sale after shipment in interstate commerce, the defendants caused the articles to be held in a building that was accessible to rodents and to be exposed to contamination by rodents, which acts resulted in the articles being adulterated.

CHARGE: 402(a) (3)—contained rodent pellets and rodent hairs (saltines only); and 402(a) (4)—held under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 11-16-65. Corporation—\$300 fine, plus costs; individual—\$300 suspended fine, and probation for 1 year.

30560. Dried pinto beans. (F.D.C. No. 50816. S. No. 41-796 A.)

INDICTMENT RETURNED: 8-6-65, E. Dist. Okla., against S. D. Giacomo Co. (a partnership), and Vito Barzellone (partner), Krebs, Okla.

ALLEGED VIOLATIONS: Between 9-4-63 and 7-1-64, while quantities of pinto beans were being held for sale after shipment in interstate commerce, the defendants caused the article to be held in a building accessible to rodents and caused the article to be exposed to contamination by rodents, which acts resulted in the article being adulterated.

CHARGE: 402(a) (3)—contained rodent urine; and 402(a) (4)—held under insanitary conditions.

PLEA: Nolo contendere.

DISPOSITION: 8-26-65. Partnership—\$250 fine; Barzellone—\$750 fine.

30561. Dried pinto beans. (F.D.C. No. 51515. S. No. 84-931 B.)

QUANTITY: 25 100-lb. bags at Dallas, Tex., in possession of Jay Freeman Co., Inc.

SHIPPED: 2-17-65 and 2-26-65, from Cahone and Dove Creek, Colo., to Mineola, Tex., and subsequently shipped to the dealer in Dallas, Tex., on 3-16-65.

LIBELED: 7-19-65, N. Dist. Tex.

CHARGE: 402(a) (3)—contained rodent urine; and 402(a) (4)—held under insanitary conditions.

DISPOSITION: 9-22-65. Default—delivered to a Government institution for use as animal feed.

30562. Preserved turnips. (F.D.C. No. 52079. S. No. 69-343 B.)

QUANTITY: 20 cases, containing 80 pkgs. each, at Boston, Mass.

SHIPPED: Between 6-29-65 and 8-18-65, from Hong Kong.

LIBELED: 12-21-65, Dist. Mass.

CHARGE: 402(a)(3)—contained moldy turnips while held for sale.

DISPOSITION: 3-21-66. Default—ordered to be destroyed or delivered to a public or charitable institution for animal use.

TOMATOES AND TOMATO PRODUCTS

30563. Canned tomatoes. (F.D.C. No. 51834. S. Nos. 25-953 B, 25-961 B.)

QUANTITY: 36 cases, each containing 6 6-lb. 6-oz. cans, at Joplin, Mo.

SHIPPED: 7-30-65, from Gentry, Ark., by Allen Canning Co. (formerly Gentry Canning Co.).

LABEL IN PART: (Can) "The Allens Tomatoes Net Contents * * * Allen Canning Company Packers & Distributors * * * Siloam Springs, Arkansas."

LIBELED: 10-15-65, W. Dist. Mo

CHARGE: 402(a)(3)—when shipped, the article contained decomposed tomato material; and 403(h)(1)—the article fell below the standard of quality for canned tomatoes, since the article contained tomato peel per pound of canned tomatoes in the container which covered an area of more than one square inch, and its label failed to bear a statement that it fell below such standard.

DISPOSITION: 12-6-65. Default—destruction.

30564. Canned tomatoes. (F.D.C. No. 51708. S. No. 86-981 B.)

QUANTITY: 28 cases, each containing 6 6-lb. 6-oz. cans, at McAlester, Okla.

SHIPPED: 9-8-65, from Siloam Springs, Ark., by Allen Canning Co.

LABEL IN PART: (Can) "The Allens Tomatoes * * * Allen Canning Company Packers & Distributors, Siloam Springs, Arkansas."

LIBELED: 11-1-65, E. Dist. Okla.

CHARGE: 403(h)(1)—when shipped, the quality of the article fell below the standard of quality for canned tomatoes, since the tomato peel per pound of canned tomatoes in the container covered an area of more than one square inch, and its label failed to bear, as specified by regulations, a statement that it fell below such standard.

DISPOSITION: 11-29-65. Default—destruction.

30565. Canned tomatoes. (F.D.C. No. 52218. S. No. 81-885 B.)

QUANTITY: 210 cases, of 6 6-lb. 6-oz. cans each, at Cincinnati, Ohio.

SHIPPED: 9-22-65, from Elwood, Ind., by Orestes Canning Co.

LABEL IN PART: (Can) "Indiana Chief Tomatoes * * * Packed by Orestes Canning Co. Orestes, Indiana."

LIBELED: 2-9-66, S. Dist. Ohio.

CHARGE: 402(a)(3)—contained fly eggs and maggots when shipped.

DISPOSITION: 4-13-66. Default—destruction.

30566. Canned tomatoes. (F.D.C. No. 51900. S. No. 23-898 B.)

QUANTITY: 220 cases, each containing 6 6-lb. 6-oz. cans, at Austin, Tex.

SHIPPED: 8-30-65, from Siloam Springs, Ark., by Allen Canning Co.

LABEL IN PART: (Can) "Rainbow Brand Tomatoes * * * Distributed by: Nelson Davis and Son Inc. Austin, Texas."

LIBELED: 11-26-65, W. Dist. Tex.; libel amended 12-10-65.

CHARGE: 402(a)(3)—contained decomposed tomato material when shipped.

DISPOSITION: 2-18-66. Default—destruction.

30567. Canned tomatoes. (F.D.C. No. 51936. S. No. 123-093 B.)

QUANTITY: 706 cases, each containing 6 6-lb. 6-oz. cans, at Philadelphia, Pa.

SHIPPED: 10-11-65, from Quantico, Md., by Comly-Flanigen Co.

LABEL IN PART: (Can) "Red Seal Brand Tomatoes * * * Comly-Flanigen Company Philadelphia, Pa."

LIBELED: 12-13-65, E. Dist. Pa.

CHARGE: 402(a)(3)—contained fly eggs, maggots, and *Drosophila* flies when shipped.

DISPOSITION: 2-9-66. Consent—claimed by M. W. Acworth & Son, Inc., Quantico, Md. Segregated; 113½ cases destroyed.

30568. Canned tomatoes. (F.D.C. 52016. S. No. 79-946 B.)

QUANTITY: 448 cases, each containing 24 1-lb. cans, at Dayton, Ohio.

SHIPPED: 11-19-65, from Austin, Ind., by Morgan Packing Co., Inc.

LABEL IN PART: (Case) "Food Club Peeled Tomatoes Topco Associates, Inc., Chicago 2, Ill.," and (can) "Food Club Peeled Tomatoes—Distributed by Topco Associates, Inc., Skokie, Illinois."

LIBELED: 12-14-65, S. Dist. Ohio.

CHARGE: 402(a)(3)—contained decomposed tomato material when shipped.

DISPOSITION: 1-14-66. Default—destruction.

30569. Canned tomatoes. (F.D.C. No. 51935. S. No. 43-260 B.)

QUANTITY: 132 cases, each containing 24 1-lb. 12-oz. cans, at St. Johnsbury, Vt.

SHIPPED: 9-29-65, from Williamsburg, Md., by Albert W. Sisk & Son.

LABEL IN PART: (Can) "Pine Cone Brand Peeled Tomatoes * * * Albert W. Sisk and Son Distributors * * * Preston, Md."

LIBELED: 12-24-65, Dist. Vt.

CHARGE: 403(h)(1)—when shipped, the quality of the article fell below the standard of quality for canned tomatoes due to excessive peel.

DISPOSITION: 1-17-66. Default—delivered to charitable institutions.

30570. Canned tomato sauce (1 seizure action). (F.D.C. Nos. 51928, 52102. S. Nos. 18-215 B, 18-223 B.)

QUANTITY: 10 cases, each containing 72 7¾ oz. cans of Mountain Pass tomato sauce, and 135 cases, each containing 72 7½ oz. cans of Tastewell tomato sauce, at Phoenix, Ariz.

SHIPPED: Between 9-14-65 and 11-5-65, from Anthony, Tex., by Mountain Pass Canning Co., Inc.

LABEL IN PART: (Can) "Mountain Pass Tomato Sauce Spanish Style Packed by Mountain Pass Canning Co., Inc., * * * Anthony, Texas," and "Tastewell Tomato Sauce * * * Pacific Mercantile Co. Distributors San Francisco, California."

LIBELED: 12-28-65, Dist. Ariz.

CHARGE: 402(a)(3)—contained decomposed tomato material when shipped.

DISPOSITION: 2-16-66. Default—destruction.

MEAT PRODUCTS AND POULTRY

30571. Canned beef. (F.D.C. No. 49859. S. No. 34-102 X.)

INFORMATION FILED: 11-10-64, W. Dist. Wis., against James E. Williams, a mink rancher, Tomah, Wis.

ALLEGED VIOLATION: Between 3-12-63 and 6-5-63, a number of cans of adulterated beef were received by the defendant in interstate commerce at Tomah, Wis., from Chicago, Ill., and were delivered by the defendant otherwise than for pay.

LABEL IN PART: (Can) "Beef and Natural Juices Product of Argentine Net Contents: 4 Lbs. Ingredients: Cooked Beef and Salt."

CHARGE: 402(a)(3)—contained insect filth when received and delivered.

PLEA: Nolo contendere.

DISPOSITION: 1-6-66. \$250 fine.

30572. Frozen chickens. (F.D.C. No. 51691. S. No. 25-081 B.)

QUANTITY: 497 cases, containing a total of 27,243 lbs., at Springfield, Ill.

SHIPPED: 8-31-65, from Nashville, Tenn.

LIBELED: 9-22-65, S. Dist. Ill.

CHARGE: 402(a)(3)—contained decomposed chicken meat while held for sale.

DISPOSITION: 12-29-65. Default—destruction.

30573. Frozen fowl livers. (F.D.C. No. 51697. S. No. 107-574 B.)

QUANTITY: 974 cases, each containing 6 5-lb. ctns., at North St. Paul, Minn.

SHIPPED: 9-11-65, from Nashville, Tenn.

LIBELED: 10-5-65, Dist. Minn.

CHARGE: 402(a)(3)—contained decomposed fowl livers, and was unfit for food by reason of friability, desiccation, and abnormal odor, while held for sale.

DISPOSITION: 11-17-65. Default—denatured for use as animal feed.

30574. Chicken broth. (F.D.C. No. 51248. S. No. 52-586 B.)

QUANTITY: 42 cases, each containing 12 jars, at Wayne, Pa.

SHIPPED: 12-31-64, from Plainfield, Mass., by Back Acres, Inc.

LABEL IN PART: (Jar) "Delaware Market House Chicken Broth Net contents 1 Pint Prepared for Delaware Market House, Wayne, Pa."

RESULTS OF INVESTIGATION: Examination showed that the article was 5.4 per cent short in volume.

LIBELED: 4-5-65, E. Dist. Pa.

CHARGE: 403(e)(2)—when shipped, the label of the article failed to bear an accurate statement of the quantity of contents.

DISPOSITION: 11-24-65. Consent—claimed by Back Acres, Inc., for relabeling.

OILS AND FATS

30575. Cottonseed oil. (F.D.C. No. 50877. S. No. 12-540 A.)

QUANTITY: 69 cases, each containing 6 cans, at Windsor Locks, Conn.

SHIPPED: 11-6-64, from Boston, Mass., by C. Pappas Co., Inc.

LABEL IN PART: (Can) "Sweet Life * * * Cottonseed Oil Contents 1 Gallon Distributed by Sweet Life Brands, Inc., New York, N.Y."

RESULTS OF INVESTIGATION: Examination showed that the article was approximately 5 percent short in volume.

LIBELED: 1-14-65, Dist. Conn.

CHARGE: 403(e)(2)—when shipped, the article failed to bear a label containing an accurate statement of the quantity of the contents.

DISPOSITION: 5-10-65. Consent—claimed by C. Pappas Co., Inc., and repacked.

30576. Table and cooking oil. (F.D.C. No. 51398. S. No. 45-173 B.)

QUANTITY: 85 cases, each containing 6 1-gal. cans at Waterbury, Conn.

SHIPPED: 3-30-65, from Somerville, Mass., by Catania-Spagna Corp.

LABEL IN PART: (Can) "Imperial Brand * * * Vegetable & Olive Oil * * * 5% Olive Oil Packed by Catania-Spagna Corporation Boston, Somerville, Mass."

RESULTS OF INVESTIGATION: Examination showed that the article was approximately 1.63 percent short in volume.

LIBELED: 6-9-65, Dist. Conn.

CHARGE: 403(e)(2)—when shipped, the article failed to bear a label containing an accurate statement of the quantity of the contents.

DISPOSITION: 7-8-65. Consent—claimed by Catania-Spagna Corp., and repacked.

SPICES, FLAVORS, AND SEASONING MATERIALS

30577. Chili powder, paprika, red chili pepper, red pepper, and Vette chili powder (2 seizure actions). (F.D.C. Nos. 51188; 51387. S. Nos. 95-413/4 B; 7-687/91 B.)

QUANTITY: 1 146-lb. drum of chili powder and 3 100-lb. drums of paprika, at Kansas City, Mo.; 2 220-lb. drums containing a total of 225 lbs. of paprika, 2 220-lb. drums containing a total of 250 lbs. of red chili pepper, 1 100-lb. drum containing 75 lbs. of red pepper, and 30 cases, each containing 2 30-lb. unlabeled pkgs. of Vette chili powder, at Leavenworth, Kans.

SHIPPED: Between 8-24-64 and 4-5-65, from Santa Maria, Calif., by Santa Maria Chili Products.

LABELS IN PART: (Drum) "A&H Chili Powder [or "Carmel Paprika" or "Rio Grande Red Chili Pepper" or "Red Pepper"] * * * Santa Maria Chili Products * * * Santa Maria, Calif." and (case) "Santa Maria Chili Products * * * Santa Maria, California * * * Vette Chili Pwd. * * * Ingredients Chili Pepper Paprika Comino Red Pepper Garlic Onion Oregano."

RESULTS OF INVESTIGATION: Examination showed that all of the articles contained added beet material.

LIBELED: 5-17-65, W. Dist. Mo., and 5-18-65, Dist. Kans.

CHARGE: All the articles except chili powder and Vette chili powder : 402(b)(2)—when shipped, beet material had been substituted in part for paprika, red chili pepper, and red pepper, and 402(b)(4)—beet material had been added to the articles and mixed and packed with them so as to increase their bulk or weight and reduce their quantity or strength and make them appear better and of greater value than they were; and 403(a)—the label statements “Paprika,” “Red Chili Pepper,” and “Red Pepper,” were false and misleading as applied to articles which contained beet material.

All the articles: 403(i)(2)—when shipped, the articles consisted in part of beet material and it was not declared as an ingredient.

DISPOSITION: On 6-23-65, Santa Maria Chili, Inc., filed claims to the articles involved in both seizure actions. On 9-13-65, upon stipulation by the parties, the action involving the articles seized at Kansas City, Kans., was transferred to the Western District of Missouri. On 12-28-65, upon stipulation by the parties, a consent decree of condemnation was filed; and the articles were thereafter delivered to public institutions for use in preparation of food.

30578. Fennel seed. (F.D.C. No. 52071. S. Nos. 103-556 B.)

QUANTITY: 18 100-lb. bags, at Los Angeles, Calif., in possession of Spice Products Co.

SHIPPED: In May 1965, from Torrance, Calif.

LIBELED: 1-28-66, S. Dist. Calif.

CHARGE: 402(a)(3)—contained insects, insect parts, insect webbing, and insect excreta; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 3-17-66. Default—destruction.

30579. Whole fennel seed. (F.D.C. No. 51451. S. Nos. 46-486/7 B.)

QUANTITY: 15 bags, each containing approximately 130 lbs., at Milwaukee, Wis.

SHIPPED: 1-6-65 and 5-3-65, from New York, N.Y., and Brooklyn, N.Y.

LIBELED: 7-13-65, E. Dist. Wis.

CHARGE: 402(a)(3)—contained rodent excreta pellets while held for sale.

DISPOSITION: 7-27-65. Default—destruction.

30580. Mustard. (F.D.C. No. 52015. S. No. 109-069 B.)

QUANTITY: 4,976 jars at Marshfield, Wis.

SHIPPED: 11-18-65, from Onamia, Minn., by Mille Lacs Maple Products Co.

LABEL IN PART: (Jar) “Figi’s Inc. Sweet Sour Mustard * * * Net Wt. 3 oz. Figi’s, Inc., Marshfield, Wis.”

RESULTS OF INVESTIGATION: Examination showed that the article was short weight.

LIBELED: 12-13-66, W. Dist. Wis.

CHARGE: 403(e)(2)—when shipped, the article failed to bear a label containing an accurate statement of quantity of contents.

DISPOSITION: 1-21-66. Default—delivered to a charitable institution.

30581. Prepared mustard. (F.D.C. No. 51285. S. No. 43-598 B.)

QUANTITY: 188 cases, each containing 12 jars, at Boston (Readville), Mass.

SHIPPED: 2-19-65, from Brooklyn, N.Y., by Old Dutch Mustard Co., Inc.

LABEL IN PART: (Jar) "Countryfine Brand Mustard * * * Net Wt. 2 Lbs. 2 Ozs.
* * * Packed For Franklin Distributors, Boston, Massachusetts."

RESULTS OF INVESTIGATION: Examination showed the article to be approximately 3.09 percent short weight.

LIBELED: 4-26-65, Dist. Mass.

CHARGE: 403(e)(2)—when shipped, the article failed to bear a label containing an accurate statement of quantity of contents.

DISPOSITION: 10-18-65. Default—ordered destroyed or delivered to a public or charitable institution.

30582. Mustard seed. (F.D.C. No. 52117. S. Nos. 86-130/1 B.)

QUANTITY: 261 100-lb. bags, at San Angelo, Tex., in possession of De Coty Coffee Co.

SHIPPED: 12-6-64, from Sunburst, Mont.

RESULTS OF INVESTIGATION: Examination showed that the product and its containers bore a pink powder containing DDT, which powder was ordinarily sprinkled on floors as a tracking powder to kill any rodent which may have walked through it.

LIBELED: 1-14-66, N. Dist. Tex.

CHARGE: 402(a)(2)(B)—while held for sale, the article was a raw agricultural commodity and it contained the pesticide chemical, DDT, which was unsafe within the meaning of 408(a), since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on mustard seed had been prescribed by regulations; 402(a)(3)—contained rodent urine and rodent excreta pellets; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 2-7-66. Consent—claimed by C. C. Ducote. Segregated; 200 lbs. destroyed.

30583. Mustard seed. (F.D.C. No. 51135. S. Nos. 40-713/14 B.)

QUANTITY: 270 100-lb. bags, and 380 100-lb bags, at Gretna, La., in possession of Pa-Poose Products Co., Inc.

SHIPPED: (270 bags) 1-22-64, from Great Falls, Mont., and (380 bags) 6-12-64, from Winnipeg, Canada.

LIBELED: 2-25-65, E. Dist. La.

CHARGE: 402(a)(3)—contained insects, insect frass, and insect excreta; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 8-10-65. Consent—claimed by Pa-Poose Products Co., Inc., New Orleans, La., and reconditioned by cleaning.

30584. Sesame seed. (F.D.C. No. 50982. S. Nos. 58-704 A, 111-397 A.)

QUANTITY: 8 100-lb. bags at Kansas City, Mo.

SHIPPED: 11-18-64, from New York, N.Y.

LIBELED: 1-15-65, W. Dist. Mo.

CHARGE: 402(a)(3)—contained rodent urine while held for sale.

DISPOSITION: 3-3-65. Default—destruction.

VITAMIN, MINERAL, AND OTHER PRODUCTS OF SPECIAL DIETARY SIGNIFICANCE

30585. **Special purpose foods.** Suits for declaratory judgment and injunction.

COMPLAINTS FILED: On or about August 20, 1962, and November 15, 1962, American Dietaids Co., Inc., Yonkers, New York, a manufacturer of special purpose foods, filed complaint for a declaratory judgment and injunction, in the United States District Court for the Southern District of New York against Anthony J. Celebrezze, Secretary of the Department of Health, Education, and Welfare, and against Edward Warner and Carl E. Lorentzson, inspectors of the Food and Drug Administration. The facts as alleged in the complaints are contained in the court opinions set forth below.

DISPOSITION: The defendants filed a motion for dismissal of the complaint filed on or about August 20, 1962, and on November 5, 1962, the court handed down the following opinion and order relating to the dismissal of the complaint:

McGOHEY, *District Judge*:

Memorandum and Order

"The defendants move under Rule 12(b) of the Federal Rules of Civil Procedure for dismissal of the complaint on the grounds (1) that the Court lacks jurisdiction over the defendant Anthony J. Celebrezze, Secretary of Health, Education, and Welfare, and (2) that in the absence of such jurisdiction over the Secretary, there is a failure to join an indispensable party.

"Service was attempted to be made upon the Secretary by delivery of copies of the summons and complaint to the United States Attorney for the Southern District of New York and, by registered mail, to the United States Attorney General in Washington, D.C., and by delivery of another copy of the summons and complaint by a United States Marshal to an officer allegedly authorized to accept service for the Secretary in Washington, D.C. This attempted personal service upon the Secretary was made on August 24, 1962, before the recent amendment of 28 U.S.C. section 1391. Pub. L. No. 748, 87th Cong., 2d Sess. § 2 (Oct. 5, 1962). Since at the time there was no authorization for such service of the process of this Court outside the territorial limits of the State of New York, Fed. R. Civ. P. 4(f), the attempted service in Washington, D.C. was without effect.¹ The complaint must therefore be dismissed as against the Secretary.

"The complaint alleges that on or about August 9, 1962, the defendants Warner and Lorentzson, Inspectors of the Food and Drug Administration, gained entry to the plaintiff's business premises under color of authority for the purpose of making a factory inspection pursuant to section 704(a) of the Food, Drug and Cosmetic Act, 21 U.S.C. section 374(a); that they brought into the premises on that occasion a concealed tape recording device without the knowledge or consent of the plaintiff; that the defendants were thus able to 'record statements and conversations of persons in plaintiff's business premises including agents, employees, and representatives of the plaintiff'; that a representative of the plaintiff became aware of the presence and use of the device and demanded that the tape be turned over to the plaintiff, which demand was refused; and that 'upon information and belief' the aforesaid acts were committed 'pursuant to and upon the direction of' Secretary Celebrezze. The complaint asks for a declaration that the acts of the defendants were unauthorized by the statute and illegal under the Fourth Amendment; for an injunction restraining 'the defendants and each of them, their servants, agents, employees and representatives' from further engaging in such acts, and for a further injunction 'directing defendants to turn over to plaintiff the

¹ *Stewart v. United States*, 5 Cir., 242 F. 2d 49; *Heiser Ready Mix Co. v. Fenton*, 7 Cir., 265 F. 2d 277.

tapes used in the recording device as hereinabove complained of, together with any copies, reproductions, memoranda, notes or other records made from such tapes.'

"It seems clear that a decree granting the relief sought would require some higher official than Warner or Lorentzson 'to take action, either by exercising directly a power lodged in him or by having a subordinate exercise it for him.' *Williams v. Fanning*, 332 U.S. 490, 493. Certainly the most important relief sought, an order directing that the tapes be turned over to the plaintiff, could only be obtained by a decree binding an official having present custody or authority over the tapes. Whether the indispensable superior officer is the Secretary himself or some lesser, local official need not be decided now, for it is clear that, in any case, no such official is presently before this Court.

"Accordingly, the complaint will be dismissed, but with leave to file a new complaint naming the official or officials against whom the relief desired, if granted, may be effectively decreed.

"So Ordered."

As a result of the foregoing opinion a new complaint was filed on or about November 15, 1962, as indicated above. The defendants thereafter filed a motion for dismissal and on 3-22-63, the court granted such motion and handed down the following opinion (215 F. Supp. 252) :

DAWSON, *District Judge*: "This is a motion by defendants, pursuant to Rule 56 of the Rules of Civil Procedure, for an order dismissing the complaint.

"The action purports to be one for declaratory judgment pursuant to Section 1337, Title 28, U.S.C., declaring that certain acts of the defendants are unauthorized by law and in violation of the provisions of Section 704(a) of the Federal Food, Drug and Cosmetic Act, and for a declaration that they constitute an interference with plaintiff's rights against illegal search and seizure. The complaint also asks for an injunction.

"The acts complained of may be summarized as follows :

"The defendants Warner and Lorentzson are inspectors of the Federal Food and Drug Administration of the Department of Health, Education and Welfare. On or about August 9, 1962, these defendants presented to the plaintiff a notice of inspection to inspect the plant of plaintiff and were granted access to the premises. It is alleged in the complaint that they had a tape recording device with them, and

'That said defendants WARNER and LORENTZSON, did thereupon carry said hidden and concealed tape recording device into and through plaintiff's business premises, wherein it was able to and did pick up and record statements and conversations of persons in plaintiff's business premises including agents, employees, and representatives of the plaintiff.'

"There is no indication that any proceeding, criminal or otherwise, is pending or that respondents are seeking to use or intending to use the tape recording referred to in the complaint.

"It may be pointed out that the use of such hidden tape recording device is not a violation of the constitutional prohibition against unreasonable search and seizure. *On Lee v. United States*, 343 U.S. 747 (1952) ; *United States v. Kabot*, 295 F. 2d 848 (2d Cir. 1961) *cert. denied* 369 U.S. 803 (1962).

"However, a more important issue is presented at the threshold. The facts alleged in the complaint do not present an issue for which declaratory judgment is an appropriate remedy. Plaintiff seeks a declaration that something done in the past was illegal. It does not contend that any present actual controversy exists. In order to get jurisdiction under the declaratory judgment statute it must be shown that the case involves what the statute calls an 'actual controversy.' Section 2201, Title 28, U.S.C. An actual controversy is one appropriate for legal determination. It must be definite and concrete. It must relate to the relations of parties having adverse interests. It differs from one that is academic or moot. *Aetna Life Ins. Co. v. Haworth*, 300 U.S. 227 (1937).

"Here there is no adversary proceeding seeking a determination of the legal rights of parties to a presently existing or contemplated controversy.

Plaintiff is saying no more than that a wrong has been done in the past and it wants a declaration that these past acts constitute a wrong. This is not the function of an action for declaratory judgment. If a wrong has been done in the past plaintiff can sue to remedy that wrong. If plaintiff is afraid that the tape recording will be used in the future in a criminal proceeding not yet instituted, it has an adequate remedy at the time of the institution of suit by a motion to suppress.

"If plaintiff is concerned lest similar acts take place in the future, the complaint is still not adequate. Circumstances may well be different in the future. Each such incident must be considered in the light of the facts of the incident. It is not proper to say that because a wrong was done plaintiff is entitled to a declaration that he should not be wronged in the future. Borchard, *Declaratory Judgment* (2d Ed.) p. 84.

"The action is not one which is appropriate for declaratory judgment. The motion for summary judgment dismissing the complaint is granted. So ordered."

The case was appealed by American Diet aids Co., Inc., to the United States Court of Appeals for the Second Circuit and on 5-17-63, such Court affirmed the judgment of the District Court in the following opinion (317 F. 2d 658) :

SMITH, *Circuit Judge*: "Appellees Warner and Lorentzson, inspectors of the Food and Drug Administration of the United States Department of Health, Education and Welfare, pursuant to department policy, on August 9, 1962, carried with them a concealed tape recorder while inspecting under authority of § 704(a) of the Federal Drug and Cosmetic Act, 21 U.S.C. § 374(a) ¹ the premises of plaintiff, a manufacturer of special purpose foods and allied products.

"Due to a malfunction of the recorder, plaintiff's representatives discovered its use and demanded that the tapes be surrendered, which was refused. Thereupon this action was commenced in the Southern District of New York against the Secretary of Health, Education and Welfare and the two inspectors, seeking a declaration that the acts of the inspectors were violative of the provisions of § 704(a) and of the Fourth Amendment's prohibition of illegal search and seizure, and seeking surrender of the tapes and injunction against 'such acts'. On defendants' motion, the Court, Archie O. Dawson, Judge, granted summary judgment dismissing the complaint. We hold that this action will not lie on the facts here established, and affirm the judgment.

"Even though the government concedes that such use of recorders is in accord with department practice, there is no showing of any intention or threat again so to inspect plaintiff's premises. There is no ground in such a single past incident for declaratory relief against possible future inspections. There is no actual controversy now existing on which to found declaratory relief. Borchard, *Declaratory Judgment* (2d Ed. 1941), pp. 81-86. *Public Service Commissioner v. Wycoff Co.*, 344 U.S. 237 (1952); *Eccles v. People's Bank of Lakewood Village, Cal.*, 333 U.S. 426, 431, 'Especially where governmental action is involved, courts should not intervene unless the need for equitable relief is clear, not remote or speculative.' Here we are not shown what use of the tapes, if any, may be intended. If a civil or criminal action

¹ § 374. Factory inspection—Right of agents to enter premises; notice; promptness

(a) For purposes of enforcement of this chapter, officers or employees duly designated by the Secretary, upon presenting appropriate credentials and a written notice to the owner, operator, or agent in charge, are authorized (1) to enter, at reasonable times, any factory, warehouse, or establishment in which food, drugs, devices, or cosmetics are manufactured, processed, packed, or held, for introduction into interstate commerce or are held after such introduction, or to enter any vehicle being used to transport or hold such food, drugs, devices, or cosmetics in interstate commerce; and (2) to inspect, at reasonable times and within reasonable limits and in a reasonable manner, such factory, warehouse, establishment, or vehicle and all pertinent equipment, finished and unfinished materials, containers, and labeling therein. A separate notice shall be given for each such inspection, but a notice shall not be required for each entry made during the period covered by the inspection. Each such inspection shall be commenced and completed with reasonable promptness.

should be brought and if claimed improper use of the tapes is then attempted, motion to discover or suppress the tapes may be appropriate. *On Lee v. United States*, 343 U.S. 747, 756 (1952). The courts are reluctant to decide important constitutional questions at a stage of proceedings when the necessity of their resolution has not been established. *Poe v. Ullman*, 367 U.S. 497 (1961). Declaratory and injunctive relief were properly denied.

"Nor do we reach the merits of the claim to possession of the tapes, upon whatever theory plaintiff may contend for such a right, for this is plainly an action against the sovereign, to which it has not consented. The tapes were recorded and retained by agents of the Secretary of Health, Education and Welfare in carrying out inspections authorized by the statute and pursuant to department policy. This is not an action to recover damages from defendants personally because of their personal actions. It seeks in this phase recovery of specific government property so that while nominally against the individuals it is in substance against the government over which the court, in the absence of consent, has no jurisdiction. *Larson v. Domestic & Foreign Corp.*, 337 U.S. 682, 688 (1949). *Dugan v. Rank*,—U.S.—April 15, 1963, 31 LW 4347.

"The judgment dismissing the complaint is affirmed."

A petition for certiorari was subsequently filed in the Supreme Court and on 10-28-63, such petition was denied (375 U.S. 896).

30586. Childrens' vitamin tablets. (F.D.C. No. 51244. S. No. 43-543 B.)

QUANTITY: 4,827 100-tablet btls., at East Woodstock, Conn.

SHIPPED: 3-13-64, from Philadelphia, Pa.

RESULTS OF INVESTIGATION: Analysis showed that the article contained less than 50 percent of the declared amount of vitamin A, less than 72 percent of the declared amount of vitamin B₁, and less than 40 percent of the declared amount of vitamin B₁₂.

LIBELED: On or about 4-22-65, Dist. Conn.

CHARGE: 402(b) (1)—while held for sale, the valuable constituents, vitamin A, vitamin B₁, and vitamin B₁₂, had been in part omitted or abstracted from the article; and 403(a)—the label statement "Each tablet contains: Vitamin A Acetate 2500 USP Units * * * Vitamin B₁ (Thiamine) 1 mg. Vitamin B₁₂ USP 3 mcg. * * *" was false and misleading.

DISPOSITION: 7-6-65. Default—destruction.

30587. Dietary wafers. (F.D.C. No. 51476. S. No. 78-772 B.)

QUANTITY: 29 cases, of 12 36-wafer boxes each, at Knoxville, Tenn., in possession of the White Stores, Inc.

SHIPPED: Between 2-25-65 and 5-27-65, from Atlanta, Ga.

LIBELED: 8-13-65, E. Dist. Tenn.

CHARGE: 402(a) (3)—contained insects; and 402(a) (4)—held under insanitary conditions.

DISPOSITION: 9-24-65. Default—destruction.

30588. Multiple vitamin capsules. (F.D.C. No. 51122. S. Nos. 43-868 B, 43-883 B.)

QUANTITY: 26 ctns., each containing 36 100-tablet btls., at Hartford, Conn., and 256 100-capsule btls., and 43 250-capsule btls., at Berlin, Conn.

SHIPPED: On an unknown date in 1963, from outside the State of Connecticut.

RESULTS OF INVESTIGATION: Analysis showed that the article contained less than 75 percent of the declared amount of vitamin B₁₂.

LIBELED: 3-25-65, Dist. Conn.; libel amended 7-9-65.

CHARGE: 402(b)(1)—while held for sale, the valuable constituent, vitamin B₁₂, had been in part omitted or abstracted from the article; and 403(a)—the label statements “Each capsule contains * * * Vitamin B₁₂ (Activity) 2.0 mcg.” and “The need in human nutrition has not been established,” as applied to calcium pantothenate, were false and misleading.

DISPOSITION: 7-12-65. Consent—destruction.

30589. Vitamin and mineral tablets. (F.D.C. No. 51118. S. Nos. 56-564/67 B.)

QUANTITY: 234 30-tablet btls., and 284 100-tablet btls., at Richmond, Va., in possession of Elars Products, Inc.

SHIPPED: 11-9-62 and 1-23-64, from New York, N.Y.

LABEL IN PART: (Btl.) “Elgyn Vitamins With Minerals 10 Vitamins—11 Minerals * * * for the prevention of multiple vitamin and certain mineral deficiencies Dose: * * * One Elcap daily * * * Dist. by Elars Prod. Inc. Richmond, Va. * * * Each Elcap With Minerals contains * * * folic acid 0.25 mg. * * * Cobalt 0.1 mg. * * * molybdenum 0.2 mg.”

RESULTS OF INVESTIGATION: The article was repacked by the dealer from bulk lots shipped as described above.

LIBELED: 3-11-65, E. Dist. Va.

CHARGE: 402(a)(2)(C)—while held for sale, the article contained folic acid, cobalt, and molybdenum, food additives which were unsafe within the meaning of 409, since they, and their use and intended use were not in conformity with a regulation or exemption; 403(a)—the listing and references on the label of cobalt, molybdenum, magnesium, and potassium, represented, suggested, and implied that the nutritional value of the article was enhanced by the presence therein of these ingredients; which representations, suggestions, and implications were false and misleading, since the nutritional value of the article was not enhanced by the inclusion of these ingredients; and 403(a)—the label statement “need in human nutrition not established” as applied to calcium pantothenate, copper, magnesium, manganese, potassium, and zinc, was false and misleading, since the need in human nutrition for these ingredients has been established.

DISPOSITION: 4-12-65. Default—destruction.

30590. Vitamin and mineral tablets. (F.D.C. No. 51489. S. Nos. 55-190 B, 55-199 B.)

QUANTITY: 12 ctns., each containing 12 btls., plus 45 btls. of 100 tablets each, and 1 drum, containing approximately 4,800 tablets, at Silver Spring, Md.

SHIPPED: 8-21-59, from Philadelphia, Pa.

LIBELED: On or about 6-16-65, Dist. Md.

CHARGE: 402(a)(2)(C)—while held for sale, the articles contained folic acid, a food additive, which is unsafe within the meaning of 409, since it and its use and intended use were not in conformity with a regulation or exemption.

DISPOSITION: 7-14-65. Default—destruction.

30591. Dietary food supplements. (F.D.C. No. 51004. S. Nos. 17-585 A, 17-587/8 A.)

QUANTITY: 19 ctns., each containing 24 1,092-tablet pkgs., 1 case containing 8 1-lb. boxes, and 1 case containing 4 3-lb. boxes, at Essex, Conn.

SHIPPED: Between 11-1-61 and 11-30-61, from Beverly Hills, Calif.

LIBELED: On or about 1-29-65, Dist. Conn.

CHARGE: 402(a)(3)—contained mold while held for sale.

DISPOSITION: 6-16-65. Default—destruction.

30592. Multi-vitamin mineral capsules. (F.D.C. No. 51938. S. No. 69-502 B.)

QUANTITY: 19 90-capsule btls. at Providence, R.I.

SHIPPED: 3-23-62, from Mystic, Conn.

LIBELED: 12-9-65, Dist, R.I.

CHARGE: 402(a)(2)(C)—while held for sale, the article contained the food additives, folic acid, vitamin K (Menadione), and vitamin B₁₂ with intrinsic factor concentrate, which were unsafe within the meaning of 409 since they and their use and intended use were not in conformity with a regulation or exemption.

DISPOSITION: 1-11-66. Default—destruction.

MISCELLANEOUS FOODS

30593. Corn husks. (F.D.C. No. 51171. S. No. 20-040 B.)

QUANTITY: 4 bales, each containing approximately 60 lbs., at Bakersfield, Calif.

SHIPPED: In December 1964, from San Antonio, Tex., by I. Garcia.

LABEL IN PART: (Bale wrapper) "Productos Of Mexico Felipe Villarreal Martinez en Hojas de Maiz San Nicolas de Los Garzas N.I."

LIBELED: 4-22-65, S. Dist. Calif.

CHARGE: 402(a)(3)—contained insects and insect excreta when shipped.

DISPOSITION: 5-19-65. Default—destruction.

30594. Corn husks. (F.D.C. No. 51705. S. No. 101-337 B.)

QUANTITY: 19 50-lb. bales at Los Angeles, Calif.

SHIPPED: 10-9-65, from Weimar, Tex., by George Walchar.

LABEL IN PART: (Bale) "Productos of Mexico Felipe Villarreal Martinez San Nicolas de Los Garzas, N.L. Exclusive en Hojas de Maiz de Superior Calidad. Rayon Nte."

LIBELED: 11-2-65, S. Dist. Calif.

CHARGE: 402(a)(3)—contained insects, insect excreta, and insect tunneling when shipped.

DISPOSITION: 11-30-65. Default—destruction.

30595. Corn husks. (F.D.C. No. 51467. S. No. 15-901 B.)

QUANTITY: 5 bales at Los Angeles, Calif.

SHIPPED: 7-6-65, from Weimar, Tex., by George Walchar.

LABEL IN PART: (Tag on burlap wrapper) "From George Walchar Route 3 Weimar, Texas * * * All Corn Shucks Hojas Fumigated."

LIBELED: 8-2-65, S. Dist. Calif.

CHARGE: 402(a)(3)—contained insects and insect-damaged corn husks when shipped.

DISPOSITION: 8-25-65. Default—destruction.

30596. Corn husks. (F.D.C. No. 51636. S. No. 23-649 B.)

QUANTITY: 18 bales, each containing approximately 75 lbs., at Weimar, Tex.

SHIPPED: 5-8-65, from Monterrey, Mexico.

LIBELED: 8-26-65, S. Dist. Tex.

CHARGE: 402(a) (3)—contained insects, insect-damaged corn husks, and moldy corn husks while held for sale.

DISPOSITION: 10-5-65. Default—destruction.

30597. Pareve soup mix. (F.D.C. No. 51638. S. Nos. 123-322 B, 123-052 B.)

QUANTITY: 24 cases, each containing 12 jars, at Philadelphia, Pa.

SHIPPED: 5-26-65, from Chicago, Ill., by Douglas Food Corp.

LABEL IN PART: (Jar) "Carmel Kosher * * * Net Weight 1 Pound Instant Soup Mix * * * Manufactured by Carmel Kosher Food Products, Inc. Chicago 32, Ill."

RESULTS OF INVESTIGATION: Examination showed that the article was approximately 2.25 percent short weight.

LIBELED: 8-30-65, E. Dist. Pa.

CHARGE: 403(e) (2)—when shipped, the article failed to bear a label containing an accurate statement of the quantity of the contents.

DISPOSITION: 10-27-65. Default—ordered delivered for the use of a charitable or public institution.

30598. Instant Jel (food starch) and flour. (F.D.C. No. 50535. S. Nos. 97-883/4 A.)

QUANTITY: 165 80-lb. bags of starch and 363 100-lb. bags of flour, at Watsonville, Calif., in possession of Del Mar Food Products Corp.

SHIPPED: 6-17-64 and 8-13-64, from Indianapolis, Ind., and Salt Lake City, Utah.

LIBELED: 10-6-64, N. Dist. Calif.

CHARGE: 402(a) (3)—contained rodent urine and was rodent gnawed; and 402(a) (4) held under insanitary conditions.

DISPOSITION: 10-21-64. Consent—claimed by Del Mar Food Products Corp., Watsonville, Calif. Segregated; 28 bags of starch and 172 bags of flour destroyed.

30599. Miscellaneous water-damaged canned food products. (F.D.C. No. 51483. S. No. 28-320 B.)

QUANTITY: 800 cases at La Crosse, Wis.

SHIPPED: Prior to 4-20-65, from outside the State of Wisconsin.

RESULTS OF INVESTIGATION: Examination showed that the articles were submerged in polluted flood waters of the Mississippi River in April 1965; that the cans were rusted; and that labels were water damaged and partly illegible or missing.

LIBELED: 8-25-65, W. Dist Wis.

CHARGE: 402(a) (4)—held under insanitary conditions.

DISPOSITION: 11-5-65. Default—destruction.

30600. Miscellaneous water-damaged canned food products. (F.D.C. No. 51710. S. No. 108-528 B.)

QUANTITY: 315 cases at Minneapolis, Minn.

SHIPPED: Prior to 4-16-65, from outside the State of Minnesota.

RESULTS OF INVESTIGATION: Articles were submerged in polluted flood waters of the Mississippi River in April 1965. Examination showed that the cans were rusted, leaking, dented, and that the labels were water damaged, partly illegible, or missing.

LIBELED: 11-5-65, Dist. Minn.

CHARGE: 402(a)(3)—contained a decomposed substance; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 12-20-65. Default—destruction.

INDEX TO NOTICES OF JUDGMENT F.N.J. NOS. 30501 TO 30600

PRODUCTS

	N.J. No.		N.J. No.
Beans, black-eyed, dried. <i>See</i>		Figs, preserved_____	30550, 30551
Peas, black-eyed, dried.		Fish and shellfish_____	30542-30548
Great Northern, dried_____	30559	Flavors. <i>See</i> Spices, flavors, and	
green, canned_____	30556	seasoning materials.	
frozen _____	30557	Flour _____	30501-30511, 30598
mung _____	30558	self-rising _____	30510, 30511
pinto, dried_____	30559-30561	Food additive violations_____	30589,
Beef, canned_____	30571		30590, 30592
Biscuit mix_____	30501	Foods, special purpose_____	¹ 30585
Cereals and cereal products____	30501-	water-damaged _____	30599, 30600
	30530	Fowl livers, frozen_____	30573
Cherries, canned_____	30549	Fruits and vegetables____	30549-30570
Chicken(s) broth_____	30574	fruit, canned_____	30549-30551
frozen _____	30572	fresh _____	30552
Chili pepper, red_____	30577	miscellaneous fruit prod-	
powder _____	30577	ucts _____	30553, 30554
Vette _____	30577	tomatoes and tomato prod-	
Citron, in brine_____	30554	ucts _____	30563-30570
Corn, yellow and white, mixed____	30530	vegetables and vegetable prod-	
husks _____	30593-30596	ucts _____	30555-30562
Cornmeal _____	30501	Garbanzos (chickpeas)_____	30555
Cottonseed oil_____	30575	Great Northern beans, dried____	30559
Crabmeat, fresh_____	30543	Grits _____	30510
Dietary food supplements_____	30591	Instant Jel (food starch)_____	30598
wafers _____	30587	Livers, fowl, frozen_____	30573
Egg(s) _____	30531-30541	Meat products and poultry_____	30571-
frozen ____	30531-30535, 30537-30540		30574
solids, dried_____	30541	Mix, biscuit_____	30501
whites, frozen_____	30536	pareve soup_____	30597
Fennel seed_____	30578	Mung beans_____	30558
whole _____	30579		

¹(30585) Suits for declaratory judgment and injunction. Contains opinions of the District Court and Court of Appeals.

	N.J. No.		N.J. No.
Mustard -----	30580	Self-rising flour-----	30510, 30511
prepared -----	30581	Sesame seed-----	30584
seed -----	30582, 30583	Shellfish. <i>See</i> Fish and shellfish.	
Oils and fats-----	30575, 30576	Shrimp, breaded, frozen-----	30544
Orange juice-----	30553	frozen -----	30546-30548
Paprika -----	30577	Special purpose foods-----	¹ 30585
Pareve soup mix-----	30597	Spices, flavors, and seasoning	
Peaches, fresh, chilled-----	30552	materials -----	30577-30584
Peas, black-eyed, dried-----	30555	Tomato(es), canned-----	30563-30569
pigeon -----	30555	sauce, canned-----	30570
Pepper, red-----	30577	Turnips, preserved-----	30562
Perch fillets, frozen-----	30542	Vegetables. <i>See</i> Fruits and veg-	
Pesticide chemical violations---	30526,	etables.	
	30529, 30582	Vitamin, mineral, and other prod-	
Pigeon peas-----	30555	ucts of special dietary signi-	
Pinto beans, dried-----	30559-30561	ficance -----	¹ 30585-30592
Rice -----	30512-30516	tablets, childrens'-----	30586
Saltines -----	30559	Water-damaged foods-----	30599-30600
Scallops, breaded, frozen-	30544, 30545	Wheat -----	² 30517-30529

SHIPPERS, MANUFACTURERS, AND DISTRIBUTORS

	N.J. No.		N.J. No.
Adler Egg Co. :		Carmel Kosher Food Products,	
frozen eggs-----	30531	Inc. :	
Allen Canning Co. (formerly Gen-		pareve soup mix-----	30597
try Canning Co.) :		Carter & Sadler Wholesale Co.,	
canned tomatoes-----	30563,	Inc. :	
	30564, 30566	dried pinto beans, Great North-	
American Dietaids Co., Inc. :		ern beans, and saltines-----	30559
special purpose foods-----	¹ 30585	Catania-Spagna Corp. :	
Back Acres, Inc. :		table and cooking oil-----	30576
chicken broth-----	30574	Citra-Sweet Juices, Inc. :	
Baltimore & Ohio Railroad :		orange juice-----	30553
flour -----	30509	Clinton Wholesale Co. :	
Barzellone, Vito :		self-rising flour and grits-----	30510
dried pinto beans-----	30560	Comly-Flanigen Co. :	
Beard Wholesale :		canned tomatoes-----	30567
self-rising flour-----	30511	Country Best Foods, Agway, Inc. :	
Blue Ribbon Products :		frozen eggs-----	30539
frozen eggs-----	30539	Dale, Ann, Products, Inc. :	
Boat. <i>See</i> Villanova.		flour -----	30503
Bowker Storage & Distributing		Davis, Nelson, & Son, Inc. :	
Co., Inc. :		canned tomatoes -----	30566
rice -----	30514	De Coty Coffee Co. :	
Buffington & Ward, Inc. :		mustard seed-----	30582
frozen eggs-----	30535, 30537	Delaware Market House :	
frozen egg whites-----	30536	chicken broth-----	30574

¹(30585) Suits for declaratory judgment and injunction. Contains opinions of the District Court and Court of Appeals.

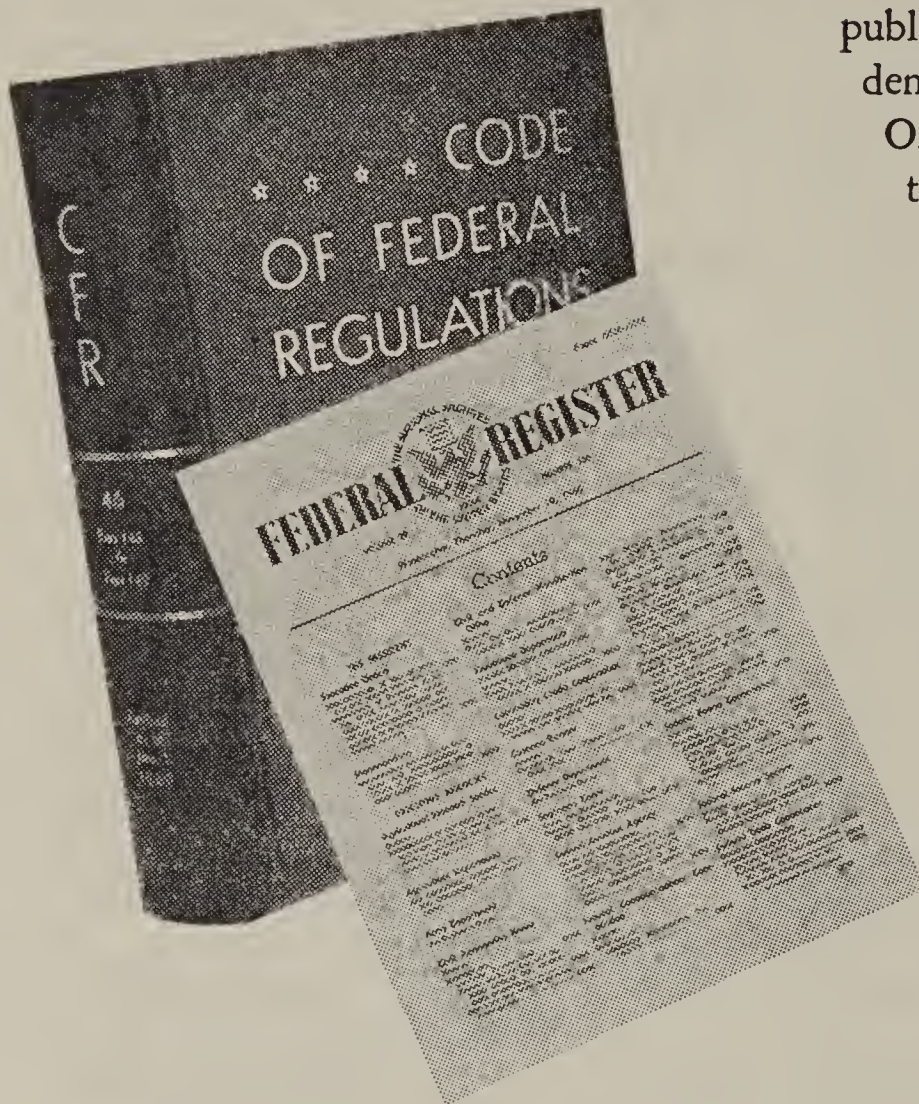
²(30517) Injunction issued.

	N.J. No.		N.J. No.
Del Mar Food Products Corp.:		Lamb, A. C.:	
Instant Jel (food starch) and		wheat -----	² 30517
flour -----	30598	Lamb, R. F.:	
Douglas Food Corp.:		wheat -----	² 30517
pareve soup mix-----	30597	Lamb Elevator Corp.:	
Elars Products, Inc.:		wheat -----	² 30517
vitamin and mineral tablets---	30589	Lebanon Cooperative Equity Ex-	
Empire Fish Co.:		change:	
frozen perch fillets-----	30542	wheat -----	30527
Farmers Cooperative Elevator		Lee, Henry, Co.:	
Co.:		rice -----	30512
wheat -----	30524, 30525	Leotis & Co., Inc.:	
Farmers Elevator Co.:		rice -----	30513
wheat -----	30519	Liberty Baking Co.:	
Farmers Grain & Fuel Co.:		flour -----	30502
wheat -----	30518	Louisiana Hatcheries, Inc.:	
Farmers Union Cooperative Ele-		frozen eggs-----	30533, 30540
vator Association:		Martinez, F. V.:	
wheat -----	30522	corn husks-----	30593, 30594
Figi's, Inc.:		May, J. R., Co.:	
mustard -----	30580	preserved figs-----	30550
Flour, Inc.:		McCall Sanders Egg Co.:	
flour -----	30504	frozen eggs-----	30534
Franklin Distributors:		McHenry Operating Co.:	
prepared mustard-----	30581	mung beans-----	30558
Freeman, Jay, Co., Inc.:		Mille Lacs Maple Products Co.:	
dried pinto beans-----	30561	mustard -----	30580
Garcia, I.:		Morgan Packing Co., Inc.:	
corn husks-----	30593	canned tomatoes-----	30568
Garth, J., Co.:		Mountain Pass Canning Co., Inc.:	
preserved figs-----	30551	canned tomato sauce-----	30570
Giacomo, S. D., Co.:		Mr. Shrimp, Inc.:	
dried pinto beans-----	30560	frozen shrimp-----	30546, 30547
Groetsch, G. W.:		Musselman-Dwan Div., Pet Milk	
flour, biscuit mix, and corn-		Co.:	
meal -----	30501	canned cherries-----	30549
Groetsch, George W., Wholesale		Northwestern Canning & Packing	
Grocer. See Groetsch, G. W.		Co. See Spoto, J. P.	
Gurley Milling Co., Inc.:		Old Dutch Mustard Co., Inc.:	
flour -----	30506	prepared mustard-----	30581
Haserot Co.:		Olson Bros., Inc.:	
preserved figs-----	30550	frozen eggs-----	30532,
Hensel Farmers Union Elevator:			30535, 30537
wheat -----	30529	frozen egg whites-----	30536
Japan Food Corp.:		Orestes Canning Co.:	
rice -----	30515	canned tomatoes-----	30565
Johnson, Howard, Co.:		Pacific Mercantile Co.:	
frozen shrimp-----	30547	canned tomato sauce-----	30570
Kelley Farquhar & Co.:		Pa-Poose Products Co., Inc.:	
frozen green beans-----	30557	mustard seed-----	30583

²(30517) Injunction issued.

	N.J. No.		N.J. No.
Pappas, C., Co., Inc.:		Spoto, A. P.:	
cottonseed oil-----	30575	dried black-eyed peas, garban-	
Peavey Co.:		zos (chickpeas), and pigeon	
wheat -----	30520	peas -----	30555
Pet Milk Co. See Musselman-		Spoto, J. P.:	
Dawn Div.		dried black-eyed peas, garban-	
Plee-Zing, Inc.:		zos (chickpeas), and pigeon	
canned cherries-----	30549	peas -----	30555
Potter, Everett:		Sterling Farmers Equity Eleva-	
wheat -----	30523	tor Co.:	
Richard Bros. Warehouse:		wheat -----	30526
flour -----	30505	Sun-Ra Frozen Foods, Inc.:	
Rullan, J. A.:		frozen breaded scallops and	
citron in brine-----	30554	frozen breaded shrimp-----	30544
Sadler, Clarence:		Sweet Life Brands, Inc.:	
dried pinto beans, Great North-		cottonseed oil-----	30575
ern beans, and saltines-----	30559	Toledo Terminal Warehouse,	
Salt Lake Egg Co.:		Inc.:	
frozen eggs-----	30538	rice -----	30516
Santa Maria Chili Products:		Topco Associates, Inc.:	
chili powder, paprika, red chili		canned tomatoes-----	30568
pepper, red pepper, and Vette		Traeger, C. W., Wholesale:	
chili powder-----	30577	flour -----	30507
Sea Garden Seafoods, Inc.:		Tri-State Milling Co.:	
fresh crabmeat-----	30543	wheat -----	30528
Seapak Corp.:		Villanova (boat):	
frozen breaded scallops-----	30545	frozen perch fillets-----	30542
7 Valley Foods:		Walchar, George:	
frozen green beans-----	30557	corn husks-----	30594, 30595
Sisk, Albert W., & Son:		Waldbaum, Milton G., Co.:	
canned tomatoes-----	30569	dried egg solids-----	30541
South Dakota Wheat Growers:		White & Sloat Canning Co.:	
wheat -----	30521	canned green beans-----	30556
Spice Products Co.:		White Stores, Inc.:	
fennel seed-----	30578	dietary wafers-----	30587
		Williams, J. E.;	
		canned beef-----	30571

The FEDERAL REGISTER...



publishes daily the full text of Presidential Proclamations, Executive Orders, and Reorganization Plans, together with Federal agency orders, regulations, notices, or similar documents having general applicability and legal effect.

The **FEDERAL REGISTER** is keyed to, and is a daily supplement to the **CODE OF FEDERAL REGULATIONS**. Sold by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C., 20402, the **FEDERAL REGISTER** is priced at \$15 a year; \$1.50 a month.

The **CODE OF FEDERAL REGULATIONS** is a *codification* of rules and regulations issued by the administrative agencies of the Federal Government. Regulatory material published in the *Federal Register* is keyed to the *Code of Federal Regulations* which is published under 50 titles, pursuant to section 11 of the Federal Register Act, as amended.

For **SAMPLE COPY** of the **FEDERAL REGISTER**, write to:
Director, Office of the Federal Register,
National Archives and Records Service,
Washington, D.C. 20408

2N7

U.S. Department of Health, Education, and Welfare

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

U. S. DEPT. OF AGRICULTURE
NATIONAL AGRICULTURAL LIBRARY

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

JAN - 5 1967

30601-30700

FOODS

CURRENT SERIAL RECORDS

The cases reported herewith were instituted in the United States district courts by United States attorneys, acting upon reports submitted by the Department of Health, Education, and Welfare. They involve foods which were alleged to be adulterated or misbranded within the meaning of the Act, when introduced into and while in interstate commerce, or while held for sale after shipment in interstate commerce. These cases involve (1) seizure proceedings in which decrees of condemnation were entered after default, or consent; and (2) criminal proceedings which were terminated upon pleas of guilty and nolo contendere, and in one case upon a verdict of not guilty. The seizure proceedings are civil actions taken against the *goods* alleged to be in violation and the criminal proceedings are against the *firms* or *individuals* charged to be responsible for violations.

Published by direction of the Secretary of Health, Education, and Welfare.

JAMES L. GODDARD, *Commissioner of Food and Drugs.*

WASHINGTON, D.C., November 25, 1966.

CONTENTS

	Page		Page
Beverages and beverage material.....	634	Fruits and vegetables.....	647
Cereals and cereal products.....	635	Canned fruit.....	647
Bakery products.....	635	Preserves.....	648
Flour.....	636	Vegetables and vegetable products.....	649
Macaroni and noodle products.....	637	Tomatoes and tomato products.....	650
Miscellaneous cereals and cereal products.....	639	Nuts and nut products.....	652
Confectionery, sugar, and related products.....	642	Spices, flavors, and seasoning materials.....	657
Confectionery.....	642	Vitamin, mineral, and other products of special dietary significance.....	659
Sugar.....	644	Index.....	660
Sirup.....	644		
Fish and shellfish.....	646		

SECTIONS OF FEDERAL FOOD, DRUG, AND COSMETIC ACT INVOLVED IN ALLEGED VIOLATIONS REPORTED IN F.N.J. NOS. 30601-30700

Adulteration, Section 402(a)(2)(C), the article contained a food additive which was unsafe within the meaning of Section 409; Section 402(a)(3), the article consisted in whole or in part of a filthy, putrid, or decomposed substance, or it was otherwise unfit for food; Section 402(a)(4), the article had been prepared, packed, or held under insanitary conditions whereby it might have become contaminated with filth or might have been rendered injurious to health; Section 402(b)(1), a valuable constituent had been in whole or in part omitted or abstracted from the article; Section 402(b)(2), a substance had been substituted wholly or in part for the article; and Section 409, a food additive was deemed to be unsafe because the food additive and its use or intended use failed to be in conformity with a regulation prescribing conditions for safe use.

Misbranding, Section 403(a), the labeling of the article was false and misleading; Section 403(d), the container of the article was so made, formed, or filled as to be misleading; Section 403(e), the article was in package form, and it failed to bear a label containing (1) the name and place of business of the manufacturer, packer, or distributor, and (2) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count; Section 403(g), the article purported to be or was represented as a food for which a definition and standard of identity had been prescribed by regulations and (1) it failed to conform to such definition and standard; and (2) its label failed to bear, as required by regulations, the common name of a certain optional ingredient present in such food; Section 403(h)(1), the article purported to be or was represented as a food for which a standard of quality had been prescribed by regulations, and its quality fell below such standard; and Section 403(i)(2), the article was not subject to the provisions of Section 403(g) and the article was fabricated from two or more ingredients, and its label failed to bear the common or usual name of each such ingredient.

BEVERAGES AND BEVERAGE MATERIAL*

30601. Roasted coffee. (F.D.C. No. 51013. S. Nos. 7-801/2 B.)

QUANTITY: 34 cases, each containing 24 1-lb. cans of drip grind coffee; and 34 cases, each containing 24 1-lb. cans of regular grind coffee at Arkansas City, Kans., in possession of Ranney-Davis Mercantile Co. (Midwest Coffee Co.).

SHIPPED: Between 1-7-64 and 9-23-64, as bulk coffee beans, from New Orleans, La.

LABEL IN PART: (Can) "Santa Fe Brand Coffee Drip Grind [or "Regular Grind"] * * * Midwest Coffee Co. Arkansas City, Kans."

RESULTS OF INVESTIGATION: Examination showed that the articles were between approximately 1.38 percent and 2.19 percent short weight.

The articles had been roasted and packed by the dealer from coffee beans shipped in bulk as described above.

LIBELED: 2-9-65, Dist. Kans.

CHARGE: 403(e)(2)—while held for sale, the articles failed to bear a label containing an accurate statement of the quantity of the contents.

*See also No. 30641.

DISPOSITION: 8-17-65. Consent—claimed by Ranney-Davis Mercantile Co. Ordered relabeled and distributed to an institution for its use only and not for resale.

30602. Tea bags. (F.D.C. No. 52184. S. Nos. 69-534/5 B.)

QUANTITY: 19 cases, each containing 6 ctns., each ctn. containing 10 pkgs. of La Touraine brand, and 132 cases, each containing 12 pkgs. of Red Label brand, at Dorchester, Mass., in possession of New England Tea Packing Co., Inc.

SHIPPED: Imported in bulk lots into the United States (La Touraine brand) during the period of March through December 1965, and (Red Label brand) prior to 9-11-64.

LABEL IN PART: (Pkgs.) "La Touraine Orange Pekoe and Pekoe Cut Black Tea 100 Bags * * * Net Weight 8 Ozs. Distributed Exclusively by La Touraine Coffee Co. Inc.," and "S. S. Pierce Co. Red Label Brand Black Tea Formosa Oolong Tea Bags Packed for S. S. Pierce Co. Boston, Mass. 48 Tea Bags Net Weight 4½ Ozs."

RESULTS OF INVESTIGATION: Examination of the article showed that the La Touraine brand was 2.50 percent short weight and the Red Label brand 3.78 percent short weight. Both lots had been repacked by the New England Tea Packing Co., Inc.

LIBELED: 2-15-66, Dist. Mass.

CHARGE: 403(e)(2)—while held for sale, the article failed to bear a label containing an accurate statement of the quantity of contents, since the label statements La Touraine brand) "Net Weight 8 Ozs." and (Red Label brand) "Net Weight 4½ Ozs." were inaccurate.

DISPOSITION: 4-7-66. Consent—claimed by New England Tea Packing Co., Inc., for relabeling.

CEREALS AND CEREAL PRODUCTS

BAKERY PRODUCTS

30603. Pumpernickel bread. (F.D.C. No. 51566. S. No. 7-063 B.)

INFORMATION FILED: 10-5-65, W. Dist. Mo., against Weintraub Bakery Co., a corporation, Kansas City, Mo., and Isadore Weintraub, manager.

SHIPPED: 1-12-65, from Kansas City, Mo., to Kansas City, Kans.

LABEL IN PART: (Pkg.) "16 oz. Net or Over Pumpernickel Weintraub Bakery Co. Kansas City, Mo."

CHARGE: 402(a)(3)—contained rodent hair fragments and insect fragments; and 402(a)(4)—prepared and packed under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 3-30-66. Each defendant—\$100 fine, plus costs.

30604. Pumpernickel bread. (F.D.C. No. 50786. S. No. 24-141 A.)

INDICTMENT RETURNED: 4-27-65, N. Dist. Ill., against Castle Baking Co., a corporation, Chicago, Ill.

SHIPPED: 1-7-64, from Chicago, Ill., to Indiana.

LABEL IN PART: (Wrapper) "Castle's Old Country Pumpernickel Pareva Wt. 1 Lb."

CHARGE: 402(a)(3)—contained rodent hairs; and 402(a)(4)—prepared and packed under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 6-25-65. \$1,500 fine, plus costs.

30605. Mrs. Smith's pies.. (F.D.C. No. 48870. S. Nos. 42-241 V, 42-243/4 V, 42-246 V.)

INDICTMENT RETURNED: 2-24-64, E. Dist. Pa., against Mrs. Smith's Pie Co., a corporation, Pottstown, Pa., Raymond A. Bitting, plant manager, and John F. Thuermer, director of quality control.

SHIPPED: On 9-20-62, from Pottstown, Pa., to Silver Spring, Md.

LABEL IN PART: "Deep Dish Pie Peach ["Pumpkin," "Coconut," or "Lemon Meringue"] Net Wt. * * * Made by Mrs. Smith's Pie Company."

CHARGE: 402(a)(4)—prepared under insanitary conditions.

PLEA: Nolo contendere.

DISPOSITION: 1-26-65. Corporation—\$20,000 fine; each individual—probation for 1 year.

30606. Pretzels. (F.D.C. No. 52510. S. Nos. 83-624 B, 83-626 B.)

QUANTITY: 54 boxes of 12 12-oz. bags each, and 229 boxes of 12 6-oz. bags each, at Chillicothe, Ohio, in possession of Carroll Food Products Co., Inc.

SHIPPED: 3-14-66, from Scranton, Pa.

LIBELED: 4-27-66, S. Dist. Ohio.

CHARGE: 402(a)(3)—contained rodent hairs and was rodent gnawed; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 6-13-66. Default—destruction.

FLOUR*

30607. Flour and rice. (F.D.C. No. 51229. S. Nos. 66-212 X, 135-426 A, 135-428/9 A.)

INFORMATION FILED: 5-28-65, S. Dist. Ga., against Ammons Grocery Co., a corporation, Augusta, Ga., Mason C. Clements, president, and E. Vance Rogers, vice president.

ALLEGED VIOLATIONS: Between 8-8-63 and 11-18-64, while quantities of flour and rice were being held for sale after shipment in interstate commerce, the defendants caused the articles to be held in a building accessible to rodents and insects and to be exposed to contamination by rodents and insects, which acts resulted in the articles being adulterated.

CHARGE: 402(a)(3)—contained insects and rodent hairs; and 402(a)(4)—held under insanitary conditions.

PLEA: Nolo contendere.

DISPOSITION: 4-11-66. Each defendant—probation for 5 years.

30608. Flour. (F.D.C. No. 52239. S. Nos. 80-459 B, 83-121 B.)

QUANTITY: 11 100-lb. bags, and 129 bales of 2 25-lb. bags each, at Cambridge, Ohio, in possession of Harper-Hutchison-Thompson Co.

*See also No. 30611.

SHIPPED: 11-29-65, from Buffalo, N.Y.

LIBELED: 3-8-66, S. Dist. Ohio.

CHARGE: 402(a)(3)—contained rodent urine, rodent excreta pellets, and was rodent gnawed; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 4-27-66. Default—destruction.

30609. Flour. (F.D.C. No. 52589. S. No. 638 B.)

QUANTITY: 188 100-lb. bags, at Atlanta, Ga., in possession of Taylor Baking Co., Inc.

SHIPPED: 3-30-66, from Minneapolis, Minn.

LIBELED: 5-10-66, N. Dist. Ga.

CHARGE: 402(a)(3)—was rodent gnawed; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 6-20-66. Default—destruction.

30610. Self-rising flour. (F.D.C. No. 52312. S. No. 61-593 B.)

QUANTITY: 150 25-lb. bags, at Cartersville, Ga., in possession of Duncan Wholesale, Inc.

SHIPPED: 2-14-66, from Chattanooga, Tenn.

LIBELED: On or about 3-10-66, N. Dist. Ga.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 5-2-66. Default—destruction.

MACARONI AND NOODLE PRODUCTS*

30611. Macaroni, spaghetti, and flour. (F.D.C. No. 51801. S. Nos. 85-543/6 B.)

INFORMATION FILED: 3-2-66, E. Dist. Tex., against Marshall Wholesale Grocery Co., a partnership, Marshall, Tex., George W. Mayfield, and Walter M. Crump, partners.

ALLEGED VIOLATIONS: Between 6-14-65 and 9-13-65, while quantities of macaroni, spaghetti, and flour were being held for sale after shipment in interstate commerce, the defendants caused the articles to be placed in a building accessible to insects and caused the articles to be exposed to contamination by insects, which acts resulted in the articles being adulterated.

CHARGE: 402(a)(3)—contained insects; and 402(a)(4)—held under insanitary conditions.

PLEA: Nolo contendere.

DISPOSITION: 3-7-66. Each defendant—\$1,000 fine, of which \$750 was suspended.

30612. Spaghetti. (F.D.C. No. 52220. S. No. 138-381 B.)

QUANTITY: 76 20-lb. cases, at Minneapolis, Minn., in possession of Mill-Brook Macaroni Co.

SHIPPED: 1-4-66, from Steger, Ill.

LIBELED: 3-2-66, Dist. Minn.

*See also No. 30689.

CHARGE: 402(a)(3)—contained insects; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 4-18-66. Default—destruction.

30613. Spaghetti. (F.D.C. No. 51874. S. No. 59-164 B.)

QUANTITY: 184 20-lb. cases at Fort Walton Beach, Fla.

SHIPPED: 9-17-65, from New Orleans, La.

LIBELED: On or about 11-12-65, N. Dist. Fla.

CHARGE: 402(a)(3)—contained insects while held for sale.

DISPOSITION: 12-15-65. Default—destruction.

30614. Spaghetti, macaroni, and cake mix. (F.D.C. No. 51841. S. Nos. 80-421/24 B.)

QUANTITY: 127 cases, each containing 24 7-oz. pkgs. of spaghetti; 118 cases, each containing 24 7-oz. pkgs. and 30 cases, each containing 24 1-lb. pkgs. of macaroni; and 20 cases, each containing 12 1-lb. 2½-oz. pkgs. of cake mix at Horse Cave, Ky., in possession of Mid-Way Wholesale Co.

SHIPPED: Between 10-31-63 and 2-25-65, from Chicago, Ill., Louisville, Ky., and Cincinnati, Ohio.

LIBELED: 10-22-65, W. Dist. Ky.

CHARGE: 402(a)(3)—contained insects, insect larvae, and insect parts; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 1-7-66. Default—destruction.

30615. Spaghetti and macaroni. (F.D.C. No. 52437. S. Nos. 66-416 B, 66-418 B.)

QUANTITY: 35 cases, each containing 24 7-oz. pkgs. of spaghetti, and 45 20-lb. cases of macaroni, at Norfolk, Va.

SHIPPED: 8-10-64 and 1-19-66, from Hatboro, Pa.

LIBELED: On or about 4-12-66, E. Dist. Va.

CHARGE: 402(a)(3)—contained insects and insect fragments while held for sale.

DISPOSITION: 5-3-66. Default—destruction.

30616. Egg noodles. (F.D.C. No. 52499. S. No. 152-008 B.)

QUANTITY: 57 10-lb. ctns. at Eau Claire, Wis.

SHIPPED: Between 2-14-66 and 3-18-66, from Minneapolis, Minn., by Mill-Brook Macaroni Co.

LABEL IN PART: (Ctn.) "Roberts Brand Medium Egg Noodles * * * Packed for Roberts Wholesale Co. Eau Claire, Wis."

LIBELED: 4-19-66, W. Dist. Wis.

CHARGE: 402(a)(2)(C)—when shipped, the article contained lindane, a food additive which was unsafe within the meaning of 409, since it and its use and intended use were not in conformity with a regulation or exemption; 402(a)(3)—contained insects and insect fragments; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 5-24-66. Default—destruction.

MISCELLANEOUS CEREALS AND CEREAL PRODUCTS*

30617. Rice. (F.D.C. No. 50801. S. Nos. 73-468/70 A.)

INFORMATION FILED: 7-15-65, W. Dist. La., against Louisiana Rice Growers, Inc., Crowley, La.

SHIPPED: On 4-23-64, from Crowley, La., to Allendale, S.C.

LABEL IN PART: (Bags) "Delta Chief Brand [or "Delta Boy Brand"] Long Grain Rice Net Wt. 1 Pound [or "3 Pounds"] Packed by Baton Rouge Rice Mill, Inc. Baton Rouge, La. [or "Louisiana Rice Growers, Inc., Crowley, La."]."

CHARGE: 402(a)(4)—prepared and packed under insanitary conditions, when shipped.

PLEA: Guilty.

DISPOSITION: 7-15-65. \$4,500 fine.

30618. Rice. (F.D.C. No. 52302. S. No. 60-552 B.)

QUANTITY: 200 25-lb. bags, at Jacksonville, Fla., in possession of United Food Stores, Inc.

SHIPPED: 2-4-66, from Stuttgart, Ark.

LIBELED: 3-17-66, M. Dist. Fla.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 4-18-66. Consent—claimed by United Food Stores, Inc. Segregated; 116 bags destroyed.

30619. Rice. (F.D.C. No. 51738. S. No. 131-127 B.)

QUANTITY: 19 100-lb. bags, at Oakland, Calif., in possession of Colonial Food Supply.

SHIPPED: 8-13-65, from Houston, Tex.

LIBELED: 12-2-65, N. Dist. Calif.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 4-27-66. Default—denatured and delivered to a charitable institution for use as animal feed.

30620. Rice. (F.D.C. No. 52323. S. Nos. 82-265/7 B.)

QUANTITY: 248 bales, each containing 6 10-lb. bags, and 229 25-lb. bags, at Indianapolis, Ind., in possession of Central Union Warehouse, Inc.

SHIPPED: Between 10-18-65 and 1-7-66, from Houston, Tex.

LIBELED: 3-22-66, S. Dist. Ind.

CHARGE: 402(a)(3)—contained rodent excreta pellets, rodent urine, rodent nesting material, and was rodent gnawed; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 4-28-66. Default—destruction.

30621. Rice. (F.D.C. No. 52310. S. No. 160-006 B.)

QUANTITY: 36 100-lb. bags, at Miami, Fla., in possession of Henry Lee Co.

SHIPPED: 2-2-66, from New Orleans, La.

*See also Nos. 30607, 30614, 30689, 30696, 30697.

LIBELED: 3-18-66, S. Dist. Fla.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 5-16-66. Default—destruction.

30622. Rice. (F.D.C. No. 52486. S. No. 67-404 B.)

QUANTITY: 112 25-lb. bags, at Arlington, Va., in possession of Mazo-Lerch Co., Inc.

SHIPPED: 9-7-65, from Houston, Tex.

LIBELED: 4-26-66, E. Dist. Va.

CHARGE: 402(a)(3)—contained rodent excreta pellets, rodent hairs, and was rodent gnawed; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 5-27-66. Default—destruction.

30623. Rice. (F.D.C. No. 62586. S. No. 75-055 B.)

QUANTITY: 90 50-lb. bags at Chicago, Ill., in possession of Japan Food Corp.

SHIPPED: 3-28-66, from Stuttgart, Ark.

LIBELED: 5-10-66, N. Dist. Ill.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 7-5-66. Default—destruction.

30624. Wheat. (F.D.C. No. 50728. S. No. 118-416 A.)

QUANTITY: 121,500 lbs. at Kansas City, Kans.

SHIPPED: 10-19-64, from Fairfield, Nebr., by Farmers Union Cooperative Association.

LIBELED: 10-30-64, Dist. Kans.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 11-25-64. Consent—claimed by Farmers Union Cooperative Marketing Association. Segregated and reconditioned; 24,100 lbs. denatured.

30625. Wheat. (F.D.C. No. 50750. S. No. 111-145 A.)

QUANTITY: 114,000 lbs. at Kansas City, Kans.

SHIPPED: 11-10-64, from Shickley, Nebr., by Shickley Grain Co.

LIBELED: 12-7-64, Dist. Kans.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 12-29-64. Consent—claimed by Wolcott & Lincoln, Inc., Kansas City, Kans. Segregated; 18,640 lbs. denatured.

30626. Wheat. (F.D.C. No. 52055. S. No. 96-578 B.)

QUANTITY: 40,000 lbs. at Atchison, Kans.

SHIPPED: 1-4-66, from Oneida, Kans., to St. Joseph, Mo., by Graham Grain Co., and thereafter reshipped to Atchison, Kans.

LIBELED: 1-24-66, Dist. Kans.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 2-17-66. Consent—claimed by Graham Grain Co., and denatured for use as animal feed.

30627. Wheat. (F.D.C. No. 52076. S. No. 97-088 B.)

QUANTITY: 86,000 lbs. at Broken Bow, Nebr.

SHIPPED: 1-20-66, from Broken Bow, Nebr., to Council Bluffs, Iowa, by Clyde Arnold and thereafter returned.

LIBELED: 2-4-66, Dist. Nebr.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 3-4-66. Consent—claimed by Clyde Arnold, and denatured for use as animal feed.

30628. Wheat. (F.D.C. No. 52067. S. No. 153-346 B.)

QUANTITY: 110,400 lbs. at Minneapolis, Minn.

SHIPPED: 1-12-66, from Honeyford, N. Dak., by Red River Grain Co.

LIBELED: 1-28-66, Dist. Minn.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 2-4-66. Consent—claimed by Red River Grain Co., and denatured for use as animal feed.

30629. Wheat. (F.D.C. No. 52226. S. No. 11-343 B.)

QUANTITY: 108,880 lbs. at Spokane, Wash.

SHIPPED: 2-14-66, from East Helena, Mont., by Tom Bozdech.

LIBELED: 2-28-66, E. Dist. Wash.

CHARGE: 402(a)(3)—contained rodent excreta pellets when shipped.

DISPOSITION: 3-8-66. Consent—claimed by Walter J. Bridges, Helena, Mont., and denatured.

30630. Wheat. (F.D.C. No. 52074. S. No. 97-086 B.)

QUANTITY: 87,360 lbs. at Percival, Iowa.

SHIPPED: 1-24-66, from Percival, Iowa, to Omaha, Nebr., by Good Grain Co., and thereafter returned.

LIBELED: 2-3-66, S. Dist. Iowa.

CHARGE: 402(a)(3)—contained insect-damaged wheat kernels when shipped.

DISPOSITION: 4-1-66. Consent—claimed by Good Grain Co., and denatured for use as animal feed.

30631. Wheat. (F.D.C. No. 51893. S. No. 139-961 B.)

QUANTITY: 45,000 lbs. at Sanger, Tex.

SHIPPED: 10-9-65 and 10-12-65, from Reserve, La., by Harvest Supply Co.

RESULTS OF INVESTIGATION: Investigation showed that the wheat was storm damaged during a hurricane while in a barge in the New Orleans area. The surface wheat subsequently became moldy, and during unloading from the barge to the trucks thorough mixing of moldy and mud-covered wheat with good wheat occurred.

LIBELED: 11-22-65, E. Dist. Tex.

CHARGE: 402(a)(3)—contained moldy wheat when shipped.

DISPOSITION: 4-25-66. Default—destruction.

30632. Wheat. (F.D.C. No. 52511. S. No. 143-918 B.)

QUANTITY: 100,000 lbs. at Kansas City, Kans.

SHIPPED: 4-11-66, from Drexel, Mo., by Drexel Elevator & Mercantile Co.

LIBELED: 4-29-66, Dist. Kans.

CHARGE: 402(a)(3)—contained insect-damaged wheat kernels when shipped.

DISPOSITION: 5-19-66. Consent—claimed by Continental Grain Co., Kansas City, Kans., and denatured for use as animal feed.

30633. Cornstarch and dextrose sugar. (F.D.C. No. 52231. S. Nos. 132-048/49 B.)

QUANTITY: 34 100-lb. bags of cornstarch, and 148 100-lb. bags of dextrose sugar, at Sacramento, Calif.

SHIPPED: Between 7-2-65 and 12-27-65, from North Kansas City, Mo.

RESULTS OF INVESTIGATION: The articles had been held under insanitary conditions at Applegate Warehouse Co., Sacramento, Calif.

LIBELED: 3-14-66, N. Dist. Calif.

CHARGE: 402(a)(3)—contained rodent urine, rodent excreta pellets, rodent hairs, and was rodent gnawed; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 5-4-66. Default—destruction.

30634. Unpopped popcorn. (F.D.C. No. 52275. S. No. 51-311 B.)

QUANTITY: 20 100-lb. bags at Buffalo, N.Y.

SHIPPED: 7-26-65, from Princeton, Ill.

LIBELED: 4-13-66, W. Dist. N.Y.

CHARGE: 402(a)(3)—contained insects, insect excreta, and insect webbing while held for sale.

DISPOSITION: 5-26-66. Default—destruction.

30635. Unpopped popcorn. (F.D.C. No. 52315. S. Nos. 104-667/8 B.)

QUANTITY: 218 100-lb. bags and 105 50-lb. bags, at Los Angeles, Calif., in possession of Pacific Commercial Warehouse, Inc.

SHIPPED: 12-7-63 and 2-18-64, from Carnarvon, Iowa.

LIBELED: 3-15-66, S. Dist. Calif.

CHARGE: 402(a)(3)—contained rodent excreta pellets, rodent urine, rodent hairs, dead mice, rodent nesting material, and was rodent gnawed; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 5-27-66. Consent—claimed by Ronald Meyer Popcorn Co., Carnarvon, Iowa, for denaturing for use as animal feed.

CONFECTIONERY, SUGAR, AND RELATED PRODUCTS

CONFECTIONERY

30636. Caramel marshmallow bars. (F.D.C. No. 51844. S. No. 61-866 B.)

QUANTITY: 61 cases, each containing 36 individually wrapped candy bars, at Alexandria, Va.

SHIPPED: On 9-14-65 and 10-1-65, from Milwaukee, Wis., by the Chocolate House, Inc.

LABEL IN PART: (Candy bar) "Caramel Marshmallow Bar Net Weight 1¾ Oz. * * * Made by: The Chocolate House, Inc., Milwaukee, Wisconsin."

RESULTS OF INVESTIGATION: Examination showed that the article was 5.7 percent short weight.

LIBELED: 10-25-65, E. Dist. Va.

CHARGE: 403(e)(2)—when shipped, the article failed to bear a label containing an accurate statement of the quantity of the contents.

DISPOSITION: 11-24-65. Default—delivered to a public institution for human consumption.

30637. Butter mints. (F.D.C. No. 50565. S. No. 54-626 A.)

QUANTITY: 103 cases, each containing 24 8-oz. bags, at Topeka, Kans.

SHIPPED: 8-13-64, from Philadelphia, Pa., by Thomas D. Richardson Co.

LABEL IN PART: (Bag) "Tru-Vu Brand Butter Mints * * * Distributed by The Fleming Company, Inc. * * * Topeka, Kansas."

RESULTS OF INVESTIGATION: Examination showed the article to be small, square, pale-yellow colored candy mints contained in a clear plastic bag, on which the distributor's name and address, the quantity of contents statement, and the statement of the ingredients was printed in white ink which was inconspicuous against the product in the bag.

LIBELED: 9-15-64, Dist. Kans.

CHARGE: 403(f)—when shipped, the information required to appear on the label under 403(e)(1) and (2), and 403(i)(2), namely, the name and place of business of the manufacturer, packer, or distributor, the quantity of contents statement, and the common or usual name of each ingredient, was not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) as to have rendered it likely to be read by the ordinary individual under customary conditions of purchase and use.

DISPOSITION: 11-27-64. Consent—claimed by the Fleming Co., Inc., and re-packaged and relabeled.

30638. Candy. (F.D.C. No. 52500. S. No. 75-049/50 B.)

QUANTITY: 52 cases, each containing 36 8-oz. pkgs., at Milwaukee, Wis.

SHIPPED: 3-15-66 and 3-21-66, from Chicago, Ill., by Charland Candy Manufacturing Co.

LABEL IN PART: (Pkg.) "Barg & Foster Old Fashioned Sheet Caramel * * * Packed By Barg & Foster Candy Co., Milwaukee 4, Wis."

LIBELED: 4-19-66, E. Dist. Wis.

CHARGE: 402(a)(3)—contained cat hairs; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 4-26-66. Consent—destruction.

30639. Candy for ice cream flavoring. (F.D.C. No. 52019. S. No. 42-489 B.)

QUANTITY: 8 30-lb. ctns. at Kosciusko, Miss.

SHIPPED: 10-27-65, from Fort Worth, Tex., by Parker's Products, Inc.

LABEL IN PART: (Ctn.) "Pangburn's Candy Ice Cream Flavors * * * Lemon Flake * * * Distributed by Parker's Products, Inc., * * * Fort Worth 9, Texas."

LIBELED: 12-17-65, N. Dist. Miss.

CHARGE: 402(a)(3)—contained rodent hairs; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 2-9-66. Default—destruction.

SUGAR*

30640. Granulated sugar. (F.D.C. No. 51401. S. No. 11-119 B.)

QUANTITY: 33 100-lb. bags, at Olympia, Wash., in possession of Stones Candy Cane Co.

SHIPPED: 2-24-65, from San Francisco, Calif.

LIBELED: 5-28-65, W. Dist. Wash.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 12-8-65. Consent—destruction.

30641. Sugar and coffee. (F.D.C. No. 51225, S. Nos. 6-251/52 A.)

INFORMATION FILED: 6-21-65, E. Dist. Va., against Lambert's Point Docks, Inc., a corporation, and Samuel D. Adsit, Jr., secretary, Norfolk, Va.

ALLEGED VIOLATION: Between 3-16-62 and 12-21-64, while quantities of sugar and coffee were being held for sale after shipment in interstate commerce, the defendants caused the articles to be held in a building that was accessible to rodents and to be exposed to contamination by rodents, which acts resulted in the articles being adulterated.

CHARGE: 402(a)(3)—contained rodent excreta and rodent urine; and 402(a)(4)—held under insanitary conditions.

PLEA: Not guilty.

DISPOSITION: On 5-26-66, the case came on for trial by jury and court. On 5-26-66, the jury returned a verdict of not guilty.

SIRUP

30642. Sorghum sirup. (F.D.C. No. 50930. S. Nos. 95-142/3 A.)

QUANTITY: 90 cases, each containing 12 4½-lb. cans, and 83 cases, each containing 12 1-qt. jars, at Scott City, Mo.

SHIPPED: Between 8-1-64 and 10-14-64, from West Monroe, La., by Roy McClain.

LABEL IN PART: (Can) "New Crop Country Sorghum Made For Roy McClain * * * Carthage, Mo."; and (jar) "Country Sorghum Made For Roy McClain * * * Carthage, Mo."

LIBELED: 1-28-65, E. Dist. Mo.

CHARGE: 402(b)(2)—when shipped, a sweetening substance other than sorghum sirup had been substituted wholly or in part for sorghum sirup; and 403(a)—the label statement "Sorghum" was false and misleading as applied to a product containing a sweetening substance other than sorghum sirup.

DISPOSITION: 3-1-65. Default—delivered to a charitable institution.

*See also No. 30633.

30643. Sorghum sirup. (F.D.C. No. 51737. S. Nos. 25-965/6 B.)

QUANTITY: 38 cases of 12 4½-lb. cans and 22 cases of 12 2-lb. jars, at Joplin, Mo., in possession of Jerry M. L. Thomas, t/a Jerry's Nursery.

SHIPPED: On 10-6-65 and 10-25-65, from West Monroe, La.

LABEL IN PART: (Case, jar, and can) "Old Mill Sorghum * * * Made for and Distributed by J. M. L. Thomas and Daughter * * * Joplin, Mo. [or "Missouri"]."

RESULTS OF INVESTIGATION: The cases, jars, and cans were shipped unlabeled and labeled by the dealer.

LIBELED: 12-6-65, W. Dist. Mo.

CHARGE: 402(b)(2)—while held for sale, a sweetening substance other than sorghum sirup had been substituted wholly or in part for sorghum sirup; and 403(a)—the label statement "Sorghum" was false and misleading as applied to a product containing a sweetening substance other than sorghum sirup.

DISPOSITION: 1-21-66. Default—delivered to a charitable institution.

30644. Harmon's malt-flavored sirups. (F.D.C. No. 51094. S. Nos. 100-303 A, 100-306/07, 19-226/27 B.)

QUANTITY: 7 cases, each containing 12 1-qt. btls. of Harmon's Instant sirup; 1 case containing 12 1-qt. btls. of Harmon's Instant Portion Control sirup; 17 cases, each containing 4 1-gal. btls. of Harmon's Sweetened and Preserved sirup; and 4 cases, each containing 4 1-gal. btls. of Quik Thik sirup, at Redwood City, Calif.

SHIPPED: Between 6-3-63 and 12-17-64, from Portland, Oreg., by National Distributors and from McCook, Nebr., by Grain Products Corp.

LABEL IN PART: (Btl.) "Harmon's Instant Liquid Malt A Natural Amplifier * * * 100% Malted Barley * * * Mfg. by Grain Prod. Corp. McCook, Neb. Ingredients: Water, Corn Syrup, Malt, 0.1% Potassium Sorbate," "Harmon's Instant Portion Control Liquid Malt Ingredients: Water, Corn Syrup, Malt, 0.1% Potassium Sorbate * * * Manufactured by Grain Products Corp. McCook, Nebr.," "Harmon's Sweetened and Preserved Liquid Malt * * * Grain Products Co. McCook, Nebraska Ingredients: Malt Wort, Corn Syrup, Malt Syrup, Malt Flour, 0.1% Potassium Sorbate," and "Quik Thik Instant Portion Controlled Liquid Malt * * * Ingredients: Water, Corn Syrup, Malt, 0.1% Potassium Sorbate * * * Manufactured by Grain Products Corporation McCook, Nebraska."

LIBELED: 3-4-65, N. Dist. Calif.

CHARGE: Harmon's Instant sirup, 403(a)—when shipped, the label bore statements, including the name of the article, "Instant Liquid Malt," which represented and suggested that the article was a liquid malt made from 100% malted barley and that it was a very high energy food; and that it was a natural amplifier, which name and statements were false and misleading as applied to a product consisting of water, corn sirup, malt, and potassium sorbate.

Harmon's Instant Portion Control sirup, 403(a)—when shipped, the name of the article, "Instant Portion Control Liquid Malt," was false and misleading, since the article consisted of water, corn sirup, malt, and potassium sorbate; and 403(f)—the name and place of business of the manufacturer, packer, or distributor, was not prominently placed on the label with such conspicuousness (as compared with other words, statements, designs, or de-

vices in the labeling) as to render it likely to be read by the ordinary individual under customary conditions of purchase and use.

Harmon's Sweetened and Preserved sirup, 403(a)—when shipped, the name of the article, "Sweetened and Preserved Liquid Malt," and the statement, "Liquid Malt" were false and misleading as applied to a product consisting of malt wort, corn sirup, malt sirup, malt flour, and potassium sorbate.

Quik Thik sirup, 403(a)—when shipped, the name of the article, "Quik Thik Instant Portion Controlled Liquid Malt," and the statement, "A high energy food," were false and misleading as applied to a product consisting of water, corn sirup, malt and potassium sorbate.

DISPOSITION: 4-21-65. Default—destruction.

FISH AND SHELLFISH

30645. Frozen ocean perch fillets. (F.D.C. No. 51486. S. Nos. 44-376 B, 44-379 B, 45-721 B.)

QUANTITY: 77 ctns., each containing 5 10-lb. pkgs. of individually cellophane wrapped fish fillets, at Gloucester, Mass.

SHIPPED: The article was from fish caught by the fishing vessel "Natale III," in the waters of the Atlantic Ocean outside the territorial limits of the State of Massachusetts on or about 5-19-65, and prepared and packed by Lucky Fish Co., Inc., Gloucester, Mass., on or about 5-19-65 and 5-20-65.

LABEL IN PART: (Pkg.) "Seacrest Brand Perch Frozen Fillets * * * New England Fillet Co., Inc. 26 Fish Pier, Boston, Mass."

LIBELED: 6-9-65, Dist. Mass.

CHARGE: 402(a) (3)—contained parasitic copepods when shipped and while held for sale.

DISPOSITION: 7-22-65. Consent—claimed by New England Fillet Co., Inc., Boston, Mass., and reconditioned, resulting in the destruction of 970 lbs.

30646. Frozen lobster tails. (F.D.C. No. 52244. S. No. 72-736 B.)

QUANTITY: 24 10-lb. ctns. at Rochester, N.Y.

SHIPPED: 9-20-65, from Miami, Fla., by Del-Sea, Inc.

LABEL IN PART: (Ctn.) "Del Sea Brand * * * Rock Lobster Tails * * * Packed by Del-Sea, Inc., Miami, Florida."

LIBELED: 3-15-66, W. Dist. N.Y.

CHARGE: 402(a) (3)—contained decomposed lobster tails when shipped.

DISPOSITION: 5-2-66. Default—destruction.

30647. Codfish cakes. (F.D.C. No. 51891. S. No. 45-757 B.)

QUANTITY: 65 cases, each containing 12 8-oz. pkgs., at Watertown, Mass.

SHIPPED: 10-13-65, from Newark, N.J., by J. W. Beardsley's Sons.

LABEL IN PART: (Pkg.) "Beardsley 20 Frozen Bite Size Codfish Cakes French Fried Quick Frozen * * * J. W. Beardsley's Sons, Mfrs. Newark, N.J."

LIBELED: 11-18-65, Dist. Mass.

CHARGE: 402(a) (3)—contained excessive *E. coli*, excessive coliforms, and excessive total bacteria when shipped.

DISPOSITION: 1-31-66. Default—delivered to a public institution for use as animal feed.

30648. Frozen shrimp. (F.D.C. No. 51184. S. No. 41-859 B.)

QUANTITY: 100 cases, 12 1½-lb. bags each, at Birmingham, Ala.

SHIPPED: 3-4-65, from Tampa, Fla., by Ocean Products, Inc.

LABEL IN PART: (Bag) "Treasure Isle Shrimp Ready to Cook Individually frozen peeled and deveined * * * Packed by Ocean Products, Inc., Tampa, Florida."

LIBELED: On or about 5-17-65, N. Dist. Ala.

CHARGE: 402(b)(2)—when shipped, the article contained broken pieces of shrimp and was in part unpeeled and deveined, which shrimp had been substituted for peeled and deveined shrimp which the article purported and was represented to be; and 403(a)—the label statement "Shrimp * * * Individually frozen peeled and deveined" was false and misleading.

DISPOSITION: 9-10-65. Consent—claimed by Ocean Products, Inc. Segregated, reprocessed, and relabeled; 160 lbs. destroyed.

FRUITS AND VEGETABLES*

CANNED FRUIT

30649. Canned peaches. (F.D.C. No. 52106. S. No. 81-526 B.)

QUANTITY: 158 cases, each containing 24 1-lb. 13-oz. cans, at Mayfield, Ky.

SHIPPED: 10-19-65, from Zebulon, Ga., by Besco Products Co.

LABEL IN PART: (Can) "Miss Georgia Yellow Freestone Peach Halves In Heavy Syrup."

LIBELED: 1-5-66, W. Dist. Ky.

CHARGE: 403(g)(2)—when shipped, the article purported to be and was represented as canned peaches, a food for which a definition and standard of identity has been prescribed by regulations, and its label failed to bear, as required by regulations, the correct name of the optional packing medium present in such food since the label bore the statement "In Heavy Syrup" whereas the article was packed in a medium designated as "light sirup" in the definition and standard.

DISPOSITION: 2-23-66. Consent—claimed by Besco Products Co., for relabeling.

30650. Canned peach concentrate. (F.D.C. No. 48498. S. No. 39-913 V.)

QUANTITY: 10,000 cases, of 6 cans each, at Bayamon, P.R.

SHIPPED: 8-25-62 and 9-2-62, from San Francisco, Calif., by Mel-Williams Co.

LABEL IN PART: (Can lid) "Sequoia Gold Western Fruit Concentrates, Inc. Visalia, California."

LIBELED: 1-18-63, Dist. P.R.

CHARGE: 402(a)(3)—contained moldy peach material when shipped.

DISPOSITION: 3-14-63. Consent—claimed by Frozen Fruits Concentrate, Inc., Bayamon, P.R. Segregated; 3,419 cases destroyed.

*See also No. 30696.

PRESERVES

30651. Blackberry preserves. (F.D.C. No. 51909. S. Nos. 85-916/17 B, 86-881/82 B.)

QUANTITY: 276 cases, each containing 12 jars, at Houston, Tex.

SHIPPED: On 8-10-65 and 9-17-65, from Fargo, N. Dak., by Paul Mark, Inc.

LABEL IN PART: (Jar) "PM Imperial Pure Blackberry Preserves Net Contents 1 Lb. 4 Oz. Mfg. by Paul Mark, Inc. Fargo, North Dakota."

RESULTS OF INVESTIGATION: Examination showed that the article was short weight.

LIBELED: 12-7-65, S. Dist. Tex.

CHARGE: 403(e)(2)—when shipped, the article failed to bear a label containing an accurate statement of the quantity of the contents.

DISPOSITION: 2-17-66. Consent—claimed by Paul Mark, Inc., for relabeling.

30652. Grape preserves. (F.D.C. No. 52045. S. No. 25-563 B.)

QUANTITY: 46 cases, of 12 jars each, at Sedalia, Mo.

SHIPPED: 8-31-65, from Fargo, N. Dak., by Paul Mark, Inc.

LABEL IN PART: (Jar) "PM Imperial Pure Concord Grape Preserves net contents 1 lb., 4 oz. Mfg. by Paul Mark, Inc., Fargo, North Dakota."

LIBELED: 1-17-66, W. Dist. Mo.

CHARGE: 403(a)—when shipped, the label statement "Grape Preserves" was false and misleading; 403(g)(1)—the article failed to conform to the definition and standard of identity for grape preserves since the article was made from a mixture composed of less than 45 parts by weight of the fruit ingredient to each 55 parts by weight of one of the saccharine ingredients specified in such definition and standard.

DISPOSITION: 3-11-66. Default—ordered delivered to charitable institutions for their use and not for sale.

30653. Red raspberry preserves. (F.D.C. No. 51732. S. No. 137-963 B.)

QUANTITY: 152 cases, of 12 jars each, at Minneapolis, Minn.

SHIPPED: Between 10-9-65 and 10-28-65, from Fargo, N. Dak., by Paul Mark, Inc.

LABEL IN PART: (Jar) "PM Imperial Pure Red Raspberry Preserves Net Contents 2 Pounds Mfg. by Paul Mark, Inc. Fargo, North Dakota."

RESULTS OF INVESTIGATION: Examination showed that the article was approximately 1.56 percent short weight.

LIBELED: 11-29-65, Dist. Minn.

CHARGE: 403(e)(2)—when shipped, the article failed to bear a label containing an accurate statement of the quantity of contents.

DISPOSITION: 2-8-66. Consent—claimed by shipper for relabeling.

30654. Orange marmalade. (F.D.C. No. 52156. S. No. 155-012 B.)

QUANTITY: 171 2½-lb. tubs at Houston, Tex.

SHIPPED: 11-10-65, from Evanston, Ill., by Charlotte Charles, Inc.

LABEL IN PART: (Tub) "European's Finest Pure Orange Marmalade Houston, Texas."

LIBELED: 1-27-66, S. Dist. Tex.

CHARGE: 403(e)(1)—when shipped, the article failed to bear a label containing the name of the manufacturer, packer, or distributor; and 403(i)(2)—the article was fabricated from two or more ingredients and its label failed to bear the common or usual name of each such ingredient.

DISPOSITION: 2-23-66. Consent—claimed by European Imports Co., Houston, Tex., and relabeled.

VEGETABLES AND VEGETABLE PRODUCTS

30655. Canned spinach. (F.D.C. No. 51933. S. No. 31-494 B.)

QUANTITY: 98 cases, each containing 24 15-oz. cans, at Tampa, Fla.

SHIPPED: 3-10-65, from Griffin, Ga., by Pomona Products Co.

LABEL IN PART: (Can) "Royal King Brand Whole Leaf Spinach * * * Distributed by Pomona Products Co. Griffin, Ga."

LIBELED: 12-8-65, M. Dist. Fla.

CHARGE: 402(a)(3)—contained peat when shipped.

DISPOSITION: 1-13-66. Default—destruction.

30656. Canned sauerkraut. (F.D.C. No. 52069. S. No. 25-986 B.)

QUANTITY: 70 cases, of 48 14-oz. cans each, at Springfield, Mo.

SHIPPED: 12-22-65, from Austin, Ind.

RESULTS OF INVESTIGATION: Examination showed that the article was undergoing chemical decomposition.

LIBELED: On or about 2-7-66, W. Dist. Mo.

CHARGE: 402(a)(3)—contained a decomposed substance while held for sale.

DISPOSITION: 3-16-66. Default—destruction.

30657. Canned green beans. (F.D.C. No. 52044. S. No. 89-866 B.)

QUANTITY: 30 cases, each containing 6 6-lb. 5-oz. cans, at Colorado Springs, Colo.

SHIPPED: 9-27-65 and 10-11-65, from Cowley, Wyo., by Big Horn Canning Co.

LABEL IN PART: (Case) "Lovell Brand Canned Vegetables Cut Green Beans Packed by Big Horn Canning Co. Billings, Montana Cowley, Wyoming," and (can) "Lovell Cut Green Beans * * * Distributed By Big Horn Canning Co. Billings, Mont. Cowley, Wyo."

LIBELED: 1-14-66, Dist. Colo.

CHARGE: 402(a)(3)—contained rubber, metal, and rust particles, and clumps of mold; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 2-25-66. Default—destruction.

30658. Canned green beans. (F.D.C. No. 51867. S. Nos. 96-822/3 B.)

QUANTITY: 124 cases, each containing 24 15½-oz. cans of cut green beans, and 171 cases, each containing 24 15½-oz. cans of french-style sliced green beans, at Wichita, Kans.

SHIPPED: On and prior to 6-24-65, from Stilwell, Okla.

LIBELED: On or about 11-24-65, Dist. Kans.

CHARGE: 402(a)(3)—contained decomposed green beans while held for sale.

DISPOSITION: 2-23-66. Default—destruction.

30659. Dried baby lima beans. (F.D.C. No. 52358. S. No. 70-233 B.)

QUANTITY: 23 100-lb. bags, at South Boston, Mass., in possession of Suffolk Grocery Co., Inc.

SHIPPED: 10-12-65, from Port Huron, Mich.

LIBELED: 3-31-66, Dist. Mass.

CHARGE: 402(a)(4)—held under insanitary conditions.

DISPOSITION: 5-31-66. Default—ordered destroyed or delivered to a public or charitable institution for use as animal feed.

30660. Dried lima beans. (F.D.C. No. 51870. S. No. 63-713 B.)

QUANTITY: 25 cases, each containing 12 2-lb. pkgs., at Petersburg, Va.

SHIPPED: 9-29-65, from Saginaw, Mich.

LIBELED: 11-5-65, E. Dist. Va.

CHARGE: 402(a)(3)—contained insects, insect parts, insect excreta, insect webbing, and insect-damaged beans while held for sale.

DISPOSITION: 1-11-66. Default—destruction.

30661. Spanish olives. (F.D.C. No. 52517. S. No. 169-301 B.)

QUANTITY: 79 cases, each containing 12 10-oz. jars, at Hopkins, Minn.

SHIPPED: 3-15-66, from Chicago, Ill., by Mawer-Annis Illinois, Inc.

LABEL IN PART: (Jar) "Salad Olives Whole and Broken Spanish Olives * * * Mawer-Annis, Inc. * * * New York, N.Y."

LIBELED: 5-16-66, Dist. Minn.

CHARGE: 402(a)(3)—contained moldy, decomposed olives when shipped.

DISPOSITION: 7-7-66. Default—destruction.

TOMATOES AND TOMATO PRODUCTS

30662. Canned tomatoes. (F.D.C. No. 51796. S. No. 31-815 B.)

INFORMATION FILED: 3-4-66, S. Dist. Fla., against Homestead Canning Co., Inc., Homestead, Fla., and Ronald S. Roberts, president.

SHIPPED: 2-23-65, from Homestead, Fla., to Macon, Ga.

LABEL IN PART: (Can) "GOOD HOPE TOMATOES NET WEIGHT 1 POUND DISTRIBUTED BY MERIDAN DISTRIBUTORS NEW YORK 8—CHICAGO 6."

CHARGE: 402(a)(3)—contained fly eggs and maggots; and 402(a)(4)—prepared and packed under insanitary conditions.

PLEA: Nolo contendere.

DISPOSITION: 4-15-66. Corporation—\$500 fine; individual—\$500 fine, and probation for 2 years.

30663. Canned tomatoes. (F.D.C. No. 52197. S. No. 66-543 B.)

QUANTITY: 1,156 cases, each containing 24 1-lb. cans, at Landover, Md.

SHIPPED: 1-25-66, from Tucker Hill, Va., by Albert W. Sisk & Son, Preston, Md.

LABEL IN PART: (Can) "Pine Cone Brand Peeled Tomatoes * * * Albert W. Sisk and Son Distributors * * * Main Office Preston, Md. Sales Office Aberdeen, Md."

LIBELED: 2-23-66, Dist. Md.

CHARGE: 403(h)(1)—when shipped, the article fell below the standard of quality for canned tomatoes since it contained tomato peel per pound of canned tomatoes in the containers which covered an area of more than one square inch, and its label failed to bear a statement that it fell below such standard.

DISPOSITION: 4-29-66. Consent—claimed by Sanford Canning Co. (packer), Tucker Hill, Va., for relabeling.

30664. Canned tomatoes. (F.D.C. No. 51656. S. No. 55-003 B.)

QUANTITY: 32 cases, each containing 6 6-lb. 6-oz. cans, at Cumberland, Md.

SHIPPED: 5-11-65, from Berkeley Springs, W. Va., by C. F. Michael & Sons.

LABEL IN PART: (Can) "Rock Gap Brand * * * Tomatoes Packed by C. F. Michael & Sons R.F.D. No. 1 Berkeley Springs, W. Va."

LIBELED: 9-7-65, Dist. Md.

CHARGE: 402(a)(3)—contained fly eggs and maggots when shipped.

DISPOSITION: 5-11-66. Default—destruction.

30665. Canned tomatoes. (F.D.C. No. 52217. S. No. 94-573 B.)

QUANTITY: 90 cases, of 24 1-lb. cans each, at Fort Wayne, Ind.

SHIPPED: 12-7-65, from Pandora, Ohio, by Pandora Canning Co.

LABEL IN PART: (Can) "Richelieu * * * Peeled Tomatoes * * * Consolidated Foods Corporation Distributors Chicago Ill."

LIBELED: 2-14-66, N. Dist. Ind.

CHARGE: 402(a)(3)—contained decomposed tomato material when shipped.

DISPOSITION: 5-5-66. Default—destruction.

30666. Canned tomatoes. (F.D.C. No. 51889. S. No. 86-617 B.)

QUANTITY: 60 cases, each containing 6 6-lb. 6-oz. cans, at Rusk, Tex.

SHIPPED: 9-3-65, from Siloam Springs, Ark., by Allen Canning Co.

LABEL IN PART: (Can) "Rainbow Brand Tomatoes * * * Distributed by: Nelson Davis and Son Inc. Austin, Texas."

LIBELED: 11-18-65, E. Dist. Tex.

CHARGE: 402(a)(3)—contained decomposed tomato material when shipped.

DISPOSITION: 1-3-66. Default—destruction.

30667. Canned tomatoes. (F.D.C. No. 52143. S. Nos. 140-182/3 B.)

QUANTITY: 150 cases, each containing 24 1-lb. cans, and 8 cases, each containing 48 10-oz. cans, at Sayre, Okla.

SHIPPED: 10-16-65, from Plainview, Tex., by Plainview Canning Co.

LABEL IN PART: (Can) "High Plains Tomatoes * * * Packed by Plainview Canning Co. Plainview, Texas," and "Adair Brand Hand Packed Tomatoes * * * Packed by Wauhilla Canning Co., Adair County, Stilwell, Okla."

LIBELED: 1-19-66, W. Dist. Okla.

CHARGE: 402(a)(3)—when shipped, the High Plains tomatoes contained decomposed tomato material; and 403(h)(1)—the quality of the Adair Brand tomatoes fell below the standard of quality for canned tomatoes due to excessive peel.

DISPOSITION: 2-14-66. Default—delivered to a Federal institution for use as animal feed.

30668. Canned tomatoes. (F.D.C. No. 52146. S. No. 56-764/5 B.)

QUANTITY: 85 cases, 6 6-lb. 6-oz. cans each, at Washington, D.C.

SHIPPED: 12-6-65, from Callao, Va., by Southern Pride Products, Inc.

LABEL IN PART: (Can) "Southern Pride Tomatoes * * * Packed by Southern Pride Products, Inc., Callao, Virginia."

LIBELED: 1-18-66, Dist. Columbia.

CHARGE: 403(h)(1)—when shipped, the quality of the article fell below the standard of quality for canned tomatoes due to excessive peel.

DISPOSITION: 4-8-66. Default—delivered to a charitable institution for use but not for sale.

30669. Canned tomatoes. (F.D.C. No. 52171. S. No. 81-883 B.)

QUANTITY: 99 cases, each containing 6 6-lb. 6-oz. cans, at Lexington, Ky.

SHIPPED: 11-19-65, from Muncie, Ind., by HLH Products.

LABEL IN PART: (Can) "Econo-Pac Brand Tomatoes * * * Distributed by National Institutional Food Distributor Associates, Inc. Atlanta, Georgia San Francisco, Calif."

LIBELED: 2-7-66, E. Dist. Ky.

CHARGE: 403(h)(1)—when shipped, the quality of the article fell below the standard of quality for canned tomatoes due to excessive peel.

DISPOSITION: 3-19-66. Default—ordered delivered to a public or charitable institution.

30670. Tomato catsup. (F.D.C. No. 52303. S. No. 61-127 B.)

QUANTITY: 149 cases, each containing 24 12-oz. btls., at Atlanta, Ga.

SHIPPED: 12-3-65, from Austin, Ind., by Morgan Packing Co., Inc.

LABEL IN PART: (Btl.) "American Beauty Tomato Catsup * * * Distributed by Morgan Packing Co. Inc. Austin, Ind."

LIBELED: 3-10-66, N. Dist. Ga.

CHARGE: 402(a)(3)—contained decomposed tomato material when shipped.

DISPOSITION: 4-26-66. Default—destruction.

30671. Tomato catsup. (F.D.C. No. 52142. S. No. 79-857 B.)

QUANTITY: 61 cases, each containing 24 12-oz. btls., at Lexington, Ky.

SHIPPED: 10-15-65, from Austin, Ind., by Morgan Packing Co., Inc.

LABEL IN PART: (Btl.) "American Beauty Tomato Catsup * * * Distributed by Morgan Packing Co., Inc., Austin, Ind."

LIBELED: 1-19-66, E. Dist. Ky.

CHARGE: 402(a)(3)—contained decomposed tomato material when shipped.

DISPOSITION: 3-15-66. Default—destruction.

NUTS AND NUT PRODUCTS

30672. Toasted almonds. (F.D.C. No. 51438. S. No. 5-864 B.)

QUANTITY: 20 cases, each containing 24 lbs., at Kansas City, Mo.

SHIPPED: 3-22-65, from Los Angeles, Calif., by Los Angeles Nut House.

LABEL IN PART: (Case) "Almonds."

LIBELED: 6-23-65, W. Dist. Mo.

CHARGE: 402(a)(3)—contained insects, insect fragments, insect excreta, and insect webbing, when shipped.

DISPOSITION: 6-25-65. Default—delivered to a public institution for use as animal feed.

30673. Unshelled brazil nuts and unshelled walnuts. (F.D.C. No. 51545. S. Nos. 84-943/4 B, 84-946/8 B.)

QUANTITY: 73,919 lbs. of brazil nuts, and 14 100-lb. bags of walnuts, at Dallas, Tex., in possession of Southern Ice & Cold Storage Co.

SHIPPED: On unknown dates, the brazil nuts from Brazil and the walnuts from California.

LIBELED: 8-20-65, N. Dist. Tex.

CHARGE: 402(a)(3)—contained rodent urine and rodent-grawed nuts; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 8-27-65. Consent—claimed by Hines Nut Co., Dallas, Tex. Segregated and reconditioned; 323 lbs. of brazil nuts and 42 lbs. of walnuts destroyed.

30674. Shelled peanuts. (F.D.C. No. 51399. S. No. 45-837 B.)

QUANTITY: 292 120-lb. bags of raw shelled peanuts at Chicago, Ill.

SHIPPED: 4-6-65, from Fitzgerald, Ga., by Dixie Peanut Co., Inc.

LABEL IN PART: (Tag on bag) "No. 1 Runner Peanuts With Splits—Old Screens Packed by Dixie Peanut Co. Fitzgerald, Ga."

LIBELED: 6-2-65, N. Dist. Ill.

CHARGE: 402(a)(3)—when shipped, contained insects and insect fragments; and 402(a)(4)—prepared, packed, and held under insanitary conditions.

DISPOSITION: 6-24-65. Consent—claimed by Dixie Peanut Co., Inc. Reconditioned; rejects converted into animal feed.

30675. Unshelled peanuts. (F.D.C. No. 51913. S. No. 61-011 B.)

QUANTITY: 5 100-lb. bags, at Savannah, Ga., in possession of Roland's Bonded Warehouse.

SHIPPED: 9-8-65, from Suffolk, Va.

LIBELED: 12-1-65, S. Dist. Ga.

CHARGE: 402(a)(3)—contained insects, insect larvae, insect parts, and insect excreta and webbing; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 12-20-65. Default—ordered delivered to a charitable institution for use only as animal feed or destroyed.

30676. Unshelled pecans and unshelled almonds. (F.D.C. No. 51137. S. Nos. 5-616/17 B.)

QUANTITY: 103 100-lb. bags of pecans, and 42 bags, each containing approximately 80 lbs. of almonds, at Omaha, Nebr., in possession of Safeway Stores, Inc.

SHIPPED: (Pecans) 11-6-64, from El Paso, Tex., and (almonds) 12-14-64, from Chicago, Ill.

LIBELED: 3-8-65, Dist. Nebr.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 11-16-65. Consent—claimed by Safeway Stores, Inc. The almonds were subsequently destroyed; the pecans were reconditioned.

30677. Shelled mixed nuts. (F.D.C. No. 51174. S. No. 19-596 B.)

QUANTITY: 100 cases, each containing 24 13-oz. cans, at Oakland, Calif., and 13 cases, each containing 24 13-oz. cans, at San Francisco, Calif.

SHIPPED: 12-18-64 and 1-22-65, from Chicago, Ill., by Wolch Nut & Candy Co.

LABEL IN PART: (Can) "Terry Brooke Salted Mixed Nuts * * * Distributed by Terry Brooke Nut Co., Chicago 47, Illinois."

LIBELED: 4-27-65, N. Dist. Calif.

CHARGE: 402(a)(3)—contained rodents and rodent hairs when shipped.

DISPOSITION: 10-19-65. Default—destruction.

30678. Shelled mixed nuts. (F.D.C. No. 51484. S. No. 20-555 B.)

QUANTITY: 18 cases, each containing 24 13-oz. cans, at Pleasant Hill, Calif.

SHIPPED: 12-18-64 and 1-22-65, from Chicago, Ill., by Wolch Nut & Candy Co.

LABEL IN PART: (Can) "Vacuum Packed Terry Brooke Salted Mixed Nuts * * * Distributed by Terry Brooke Nut Co., Chicago 46, Illinois."

LIBELED: 8-31-65, N. Dist. Calif.

CHARGE: 402(a)(3)—contained rodent hairs when shipped.

DISPOSITION: 10-20-65. Default—destruction.

30679. Shelled mixed nuts. (F.D.C. No. 50880. S. No. 113-189 A.)

QUANTITY: 180 cases, each containing 24 1-lb. pkgs., at Landover, Md.

SHIPPED: 11-17-64 and 11-20-64, from New York, N.Y.

LIBELED: 12-9-64, Dist. Md.

CHARGE: 402(a)(3)—contained insects, and rancid, decomposed nuts while held for sale.

DISPOSITION: 1-6-65. Consent—claimed by the Graham Co., Inc., New York, N.Y. Segregated; 21 lbs. destroyed.

30680. Shelled mixed nuts. (F.D.C. No. 51016. S. No. 10-806 B.)

QUANTITY: 579 cases, each containing 12 12-oz. cans, plus 2,400 12-oz. cans, at Seattle, Wash.

SHIPPED: Between 11-17-64 and 1-15-65, from Portland, Oreg., by Hoody Peanut Products Co.

LABEL IN PART: (Can) "Nut Lunch Mixed Nuts with Peanuts * * * Nut Lunch Company Portland, Oregon."

RESULTS OF INVESTIGATION: Examination showed that the article contained by count approximately 91 percent peanuts. The vignette depicted the presence of substantial quantities of mixed nuts other than peanuts, and few peanuts. The cans were filled to approximately 61 percent by volume of the available can capacity. The top and bottom ends of the can were indented to reduce the can volume by approximately 7 percent.

LIBELED: 2-8-65, W. Dist. Wash.; libel amended 2-17-65.

CHARGE: 403(a)—when shipped, the label vignette, depicting substantial quantities of mixed nuts other than peanuts, and very few peanuts, was false and misleading; and 403(d)—the container of the article was so made, formed and filled as to be misleading, since the article occupied only approximately 61 percent of the available can volume, and since the ends of the cans were indented to reduce the available volume of the can.

DISPOSITION: 3-16-65. Consent—claimed by Hoody Peanut Products Co., Portland, Oreg.; repacked and relabeled.

30681. Shelled walnuts and shelled Spanish peanuts. (F.D.C. No. 50713. S. Nos. 122-827/28 A, 123-642 A.)

QUANTITY: 43 25-lb. boxes of shelled nuts, 47 100-lb. bags of shelled Spanish peanuts, and 17 25-lb. cases of shelled nuts, at Minneapolis, Minn., in possession of Martin Nut Co.

SHIPPED: Between 2-10-64 and 8-12-64, from Somis, Calif., De Leon, Tex., and New York, N.Y.

LIBELED: 11-23-64, Dist. Minn.

CHARGE: 402(a)(3)—contained insects and insect-infested nuts (shelled nuts, 43-box lot), rodent urine (peanuts), insects, insect fragments, and rodent hairs (shelled nuts, 17-case lot), and decomposed nuts (43-box lot); and 402(a)(4)—held under insanitary conditions (peanuts).

DISPOSITION: 2-1-65. Default—destruction.

30682. Shelled walnuts. (F.D.C. No. 51744. S. No. 152-829 B.)

QUANTITY: 41 25-lb. cases at St. Paul, Minn.

SHIPPED: 11-4-65, from Visalia, Calif., by Associated Nut Growers.

LABEL IN PART: (Case) "California Shelled Walnuts * * * Packed by Associated Nut Growers, Visalia, Calif."

LIBELED: 12-2-65, Dist. Minn.

CHARGE: 402(a)(3)—contained insects; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: 1-17-66. Default—denatured for use as animal feed.

30683. Shelled walnuts. (F.D.C. No. 52236. S. No. 151-905 B.)

QUANTITY: 137 25-lb. boxes, at Minneapolis, Minn.

SHIPPED: 5-10-65, from Portland, Oreg.

LIBELED: 3-4-66, Dist. Minn.

CHARGE: 402(a)(3)—contained insects, insect larvae, and insect parts while held for sale.

DISPOSITION: 4-18-66. Default—destruction.

30684. Shelled walnuts. (F.D.C. No. 51921. S. No. 69-342 B.)

QUANTITY: 37 27½-lb. ctns., at Boston, Mass., in possession of Port Terminals, Inc.

SHIPPED: 12-22-64, from Istanbul, Turkey.

LIBELED: 12-2-65, Dist. Mass.

CHARGE: 402(a)(3)—contained insects, insect excreta and webbing, and rancid nuts; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 2-7-66. Default—ordered destroyed or delivered to a public or charitable institution for use as animal feed.

30685. Shelled walnuts. (F.D.C. No. 52484. S. No. 191-368 B.)

QUANTITY: 10 ctns., each containing approximately 24 lbs., at Mineral Wells, Tex.

SHIPPED: 3-28-66, from Dorchester, Mass., by Globe Grocery Co.

LABEL IN PART: (Ctn.) "From Globe Grocery Co. * * * Dorchester 21, Mass. * * * Walnuts."

LIBELED: 5-5-66, N. Dist. Tex.

CHARGE: 402(a)(3)—contained insects, insect webbing, rodent excreta pellets, and rancid nuts when shipped.

DISPOSITION: 6-22-66. Default—destruction.

30686. Unshelled walnuts and unshelled pecans. (F.D.C. No. 51145. S. Nos. 6-894/6 B.)

QUANTITY: 70 100-lb. bags of unshelled walnuts and 80 50-lb. bags of unshelled pecans, at Omaha, Nebr., in possession of Hinky Dinky Stores.

SHIPPED: Between 11-3-64 and 12-4-64, from Chicago, Ill., and Stockton, Calif.

LIBELED: 3-11-65, Dist. Nebr.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 6-9-65. Consent—claimed by American Community Stores Corp. Segregated and reconditioned; approximately 180 lbs. of walnuts and 200 lbs. of pecans destroyed.

30687. Unshelled walnuts. (F.D.C. No. 51922. S. No. 64-064 B.)

QUANTITY: 15 cases, each containing 24 1-lb. ctns., at Hagerstown, Md.

SHIPPED: 10-16-64, from Stockton, Calif.

LIBELED: On or about 12-1-65, Dist. Md.

CHARGE: 402(a)(3)—contained insects, and rancid, shriveled nuts, while held for sale.

DISPOSITION: 1-14-66. Default—destruction.

30688. Shelled pecans. (F.D.C. No. 52238. S. Nos. 152-148/9 B.)

QUANTITY: 14 5-lb. cases and 7 30-lb. cases of pecan pieces, at Minneapolis, Minn.

SHIPPED: 1-24-66, from Dallas, Tex., by Texas Nut Co.

LABEL IN PART: (Case) "Standard MED. Pieces * * * Aslesen Co. * * * Minneapolis, Minn."

LIBELED: 3-9-66, Dist. Minn.

CHARGE: 402(a)(3)—contained *E. coli*, and excessive coliforms when shipped.

DISPOSITION: 4-22-66. Default—destruction.

30689. Coconut, grits, macaroni, and popcorn. (F.D.C. No. 50461. S. Nos. 1-183/4 A, 2-502 A, 2-504 A, 2-508 A.)

INFORMATION FILED: 8-31-64, W. Dist. N.C., against Dixie Grocery Co., Inc., Lincolnton, N.C., Thurman R. Ward, president, and Robert A. Little, secretary-treasurer.

ALLEGED VIOLATIONS: Between 8-31-63 and 3-5-64, while quantities of coconut, grits, macaroni, and popcorn were being held for sale after shipment in interstate commerce, the defendants caused such coconut, grits, macaroni, and popcorn to be held in a building accessible to insects and to be exposed to contamination by insects, which acts resulted in the coconut, grits, macaroni, and popcorn being adulterated.

CHARGE: 402(a)(3)—contained insects, insect larvae, and insect cast skins; and 402(a)(4)—held under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 4-19-65. \$450 fine.

SPICES, FLAVORS, AND SEASONING MATERIALS

30690. Cumin seed. (F.D.C. No. 52062. S. No. 126-520 B.)

QUANTITY: 792 1½-oz. tins, at St. Louis, Mo.

SHIPPED: 9-27-65, from Toledo, Ohio, by the Woolson Spice Co.

LABEL IN PART: (Tin) "Forbes Pure Ground Comino (Cumin Seed) * * * Jas. H. Forbes Tea & Coffee Corp. St. Louis, Missouri Division The Woolson Spice Company Toledo, Ohio."

LIBELED: 1-21-66, E. Dist. Mo.

CHARGE: 402(a)(3)—when shipped, contained sand and grit; and 402(b)(2)—sand and grit had been substituted for cumin seed.

DISPOSITION: On or about 4-15-66. Default—destruction.

30691. Dried chili pods. (F.D.C. No. 51707. S. Nos. 101-069/70 B.)

QUANTITY: 48 200-lb. bags at Los Angeles, Calif., in possession of Arizona Picos Packing Co.

SHIPPED: Between 12-10-64 and 10-28-65, from Garfield, N. Mex., and Ensenada, Mexico.

LIBELED: 11-3-65, S. Dist. Calif.

CHARGE: 402(a)(3)—held under insanitary conditions while held for sale.

DISPOSITION: 1-17-66. Consent—claimed by Felicitas Flores, t/a Arizona Picos Packing Co. Segregated and reconditioned; 583 lbs. destroyed.

30692. Fennel seed. (F.D.C. No. 51639. S. No. 47-881 B.)

QUANTITY: 4 bags, each containing approximately 125 lbs. of whole fennel seed, at Chicago, Ill.

SHIPPED: On an unknown date, from India.

LABEL IN PART: (Bag) "S C Fennel Biddle New York Produce of India Biddle."

LIBELED: 8-27-65, N. Dist. Ill.

CHARGE: 402(a)(3)—contained insects and rodent excreta pellets when shipped.

DISPOSITION: 11-17-65. Default—destruction.

30693. Mustard seed. (F.D.C. No. 52131. S. Nos. 131-744/6 B.)

QUANTITY: 231 100-lb. bags, at Oakland, Calif., in possession of Morehouse Mustard & Supply Co.

SHIPPED: Between 6-8-65 and 10-20-65, from Lethbridge, Canada, and Conrad, Mont.

LIBELED: 1-13-66, N. Dist. Calif.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 2-8-66. Consent—claimed by Morehouse Mustard & Supply Co. Segregated and reconditioned; 50 lbs. destroyed.

30694. Mustard seed. (F.D.C. No. 51478. S. Nos. 84-885/7 B.)

QUANTITY: 557 100-lb. bags, at Oklahoma City, Okla., in possession of Clements Foods Co., Inc.

SHIPPED: Between 4-20-65 and 6-29-65, from Sunburst and Conrad, Mont.

LIBELED: 8-19-65, W. Dist. Okla.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 9-13-65. Consent—claimed by Clements Foods Co. Segregated; 361 bags destroyed.

30695. Poppyseed. (F.D.C. No. 52088. S. No. 60-753 B.)

QUANTITY: 71 bags, each containing approximately 109 lbs., at Miami, Fla., in possession of Smith Terminal Warehouse Co.

SHIPPED: 8-27-65, from Holland.

LIBELED: 1-27-66, S. Dist. Fla.

CHARGE: 402(a)(3)—contained rodent urine; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 3-31-66. Consent—claimed by Smith Terminal Warehouse Co. Segregated and reconditioned; 1,907 lbs. destroyed.

30696. Sesame seed, currants, yellow cornmeal, Donut mix, salt rising dry yeast, and coffeecake mix. (F.D.C. No. 50680. S. Nos. 52-934 A, 52-936 A, 52-938/42 A.)

QUANTITY: 18 100-lb. bags of sesame seed, 25 25-lb. boxes of currants, 14 100-lb. bags of yellow cornmeal, 25 100-lb. bags of sesame seed, 116 100-lb. bags of Donut mix, 6 bales, each containing 6 10-lb. bags of salt rising yeast, and 37 100-lb. bags of coffeecake mix, at Detroit, Mich., in possession of Philip Olender & Co.

SHIPPED: Between 3-9-64 and 8-3-64, from New York, N.Y., Selma, Calif., Rochester, Ind., Brooklyn, N.Y., Evansville, Ind., and Pittsburgh, Pa.

LIBELED: 10-20-64, E. Dist. Mich.

CHARGE: 402(a)(3)—the 18-bag lot of sesame seed contained insects, insect webbing, and insect excreta; the currants contained insects, insect parts and moldy currants; the cornmeal contained insects, insect parts, insect webbing, and insect excreta; the 25-bag lot of sesame seed and the Donut mix contained insects; the coffeecake mix contained insects and insect larvae; and the salt rising yeast contained insect parts and insect webbing, and was rodent gnawed; and 402(a)(4)—all of the articles had been held under insanitary conditions.

DISPOSITION: 4-8-65. Consent—claimed by Philip Olender & Co., Detroit, Mich. The 18-bag lot of sesame seed was denatured for use as animal feed; the currants were destroyed; the cornmeal was denatured for use as animal feed; the 25-bag lot of sesame seed and the Donut mix were reconditioned; the yeast was destroyed; and the coffeecake mix was denatured.

VITAMIN, MINERAL, AND OTHER PRODUCTS OF SPECIAL DIETARY SIGNIFICANCE

30697. Baby cereal, cake mix, jelly, and pudding mix. (F.D.C. No. 51200. Nos. 94-063 A, 95-421 A, 95-424 A, 95-430 A.)

INFORMATION FILED: 6-7-65, E. Dist. Mo., against Soll-Madden Salvage Co., Inc., St. Louis, Mo.

ALLEGED VIOLATION: Between 4-1-64 and 10-19-64, while quantities of baby cereal, cake mix, jelly, and pudding mix were being held for sale after shipment in interstate commerce, the defendant caused the articles to be held in a building that was accessible to insects and rodents and to be exposed to contamination by insects and rodents, which acts resulted in the articles being adulterated.

CHARGE: 402(a)(3)—contained insects, insect parts, insect webbing, insect larvae, insect cast skins, rodent pellets and rodent hairs; and 402(a)(4)—held under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 1-21-66. \$1,200 fine.

30698. Dietary supplement tablets. (F.D.C. No. 51835. S. No. 59-617 B.)

QUANTITY: 240 250-tablet btls. at Atlanta, Ga.

SHIPPED: 4-13-65, from Greenville, S.C.

RESULTS OF INVESTIGATION: Analysis showed that the article contained approximately 54 percent of the declared amount of thiamin hydrochloride.

LIBELED: 10-15-65, N. Dist. Ga.

CHARGE: 402(b)(1)—while held for sale, a valuable constituent, thiamin hydrochloride, had been wholly or in part omitted or abstracted from the article; and 403(a)—the label statement "Thiamin HCl. 0.5 mg." was false and misleading as applied to a product containing less than the declared amount of thiamin hydrochloride.

DISPOSITION: 12-7-65. Default—destruction.

30699. Food supplement tablets. (F.D.C. No. 51136. S. No. 62-128 A.)

QUANTITY: 40 cases, of 24 pkgs. each, at Panorama City, Calif.

SHIPPED: Unknown date, from Beverly Hills, Calif., to England and subsequently returned to United States.

RESULTS OF INVESTIGATION: Analysis showed that the article contained less than 70 percent of declared amount of vitamin A and less than 60 percent of declared amount of vitamin C.

LIBELED: 2-26-65, S. Dist. Calif.

CHARGE: 402(b)(1)—while held for sale, the valuable constituents, vitamin A and vitamin C had been in part omitted or abstracted from the article; and 403(a)—the label statements "2 Vitamin Tablets and 4 mineral tablets daily will supply: Vitamin A—8000 USP Units—Vitamin C—60 mg." were false and misleading.

DISPOSITION: 3-30-65. Default—destruction.

30700. Food supplement tablets. (F.D.C. No. 51132. S. No. 2-459 B.)

QUANTITY: 4 cases, each containing 6 60-mg. pkgs., at Cincinnati, Ohio.

SHIPPED: Unknown date, from Beverly Hills, Calif.

RESULTS OF INVESTIGATION: Analysis showed that the article contained approximately 65 percent of the declared amount of vitamin C.

LIBELED : 4-6-65, S. Dist. Ohio.

CHARGE: 402(b)(1)—while held for sale, the valuable constituent, vitamin C, had been in part omitted or abstracted from the article; and 403(a)—the label statement “2 Vitamin Tablets and 4 Mineral Tablets Daily will supply * * * Vitamin C * * * 60 mg.” was false and misleading.

DISPOSITION: 6-14-65. Default—destruction.

INDEX TO NOTICES OF JUDGMENT F.N.J. NOS. 30601 TO 30700

PRODUCTS

	N.J. No.		N.J. No.
Almonds, toasted_____	30672	Flour _____	30607-30611
unshelled _____	30676	self-rising _____	30610
Baby cereal_____	30697	Food additive violation_____	30616
Bakery products_____	30603-30606	supplement tablets_____	30699, 30700
Beans, green, canned____	30657, 30658	Fruits and vegetables____	30649-30671,
lima, dried_____	30660		30696
lima, baby, dried_____	30659	fruit, canned_____	30649, 30650
Beverages and beverage ma-		preserves _____	30651-30654
terials _____	30601, 30602, 30641	tomatoes and tomato prod-	
Blackberry preserves_____	30651	ucts _____	30662-30671
Brazil nuts, unshelled_____	30673	vegetables and vegetable	
Bread, pumpernickel____	30603, 30604	products _____	30655-30661
Butter mints_____	30637	Grape preserves_____	30652
Cake mix_____	30614, 30697	Grits _____	30689
Candy. <i>See</i> Confectionery.		Harmon's malt-flavored sirups__	30644
Catsup, tomato_____	30670, 30671	Jelly _____	30697
Cereals and cereal products____	30603-	Lima beans, baby_____	30659
30635, 30689, 30696		dried _____	30660
baby _____	30697	Lobster tails, frozen_____	30646
Chili pods, dried_____	30691	Macaroni and noodle products__	30611-
Coconut _____	30689		30616, 30689
Codfish cakes_____	30647	Marmalade, orange_____	30654
Coffee _____ ¹	30641	Mix(es), cake_____	30614, 30697
roasted _____	30601	coffeecake _____	30696
Coffeecake mix_____	30696	Donut _____	30696
Confectionery _____	30636-30639	pudding _____	30697
Cornmeal, yellow_____	30696	Mustard seed_____	30693, 30694
Cornstarch _____	30633	Noodles. <i>See</i> Macaroni and	
Cumin seed_____	30690	noodle products.	
Currants _____	30696	Nuts and nut products____	30672-30689
Dietary supplement tablets____	30698	Olives, Spanish_____	30661
Donut mix_____	30696	Orange marmalade_____	30654
Fennel seed_____	30692	Peach(es), canned_____	30649
Fish and shellfish_____	30645-30648	concentrate, canned_____	30650
Flavors. <i>See</i> Spices, flavors, and		Peanuts, shelled_____	30674
seasoning materials.		Spanish, shelled_____	30681
		unshelled _____	30675

¹(30641) Prosecution contested

¹(30641) Prosecution contested.

	N.J. No.		N.J. No.
Pecans, shelled_____	30688	Sirup(s), sorghum_____	30642, 30643
unshelled _____	30676, 30686	malt-flavored, Harmon's_____	30644
Perch fillets, frozen_____	30645	Sorghum sirup_____	30642, 30643
Pies, Mrs. Smith's_____	30605	Spaghetti. <i>See</i> Macaroni and	
Popcorn, unpopped_____	30634,	noodle products.	
	30635, 30689	Spanish olives_____	30661
Poppyseed _____	30695	Spinach, canned_____	30655
Preserves, blackberry_____	30651	Sugar _____ ¹	30641
grape _____	30652	dextrose _____	30633
red raspberry_____	30653	granulated _____	30640
Pretzels _____	30606	Tea bags_____	30602
Pudding mix_____	30697	Tomato(es), canned_____	30662-30669
Pumpernickel bread_____	30603, 30604	catsup _____	30670, 30671
Raspberry, red, preserves_____	30653	Vegetables. <i>See</i> Fruits and	
Rice _____	30607, 30617-30623	vegetables.	
Sauerkraut, canned_____	30656	Walnuts, shelled_____	30681-30685
Sesame seed_____	30696	Walnuts, unshelled_____	30673,
Shellfish. <i>See</i> Fish and shellfish.			30686, 30687
Shrimp, frozen_____	30648	Wheat _____	30624-30632
		Yeast, salt rising, dry_____	30696

SHIPPERS, MANUFACTURERS, AND DISTRIBUTORS

	N.J. No.		N.J. No.
Adsit, S. D., Jr.:		Bozdech, Tom:	
sugar and coffee _____ ¹	30641	wheat _____	30629
Allen Canning Co:		Brooke, Terry, Nut Co.:	
canned tomatoes _____	30666	shelled mixed nuts_____	30677, 30678
Ammons Grocery Co.:		Carroll Food Products Co., Inc.:	
flour and rice _____	30607	pretzels _____	30606
Arizona Picos Packing Co.:		Castle Baking Co.:	
dried chili pods _____	30691	pumpernickel bread _____	30604
Arnold, Clyde:		Central Union Warehouse, Inc.:	
wheat _____	30627	rice _____	30620
Aslesen Co.:		Charland Candy Manufacturing	
shelled pecans _____	30688	Co.:	
Associated Nut Growers:		candy _____	30638
shelled walnuts _____	30682	Charles, Charlotte, Inc.:	
Barg & Foster Candy Co.:		orange marmalade _____	30654
candy _____	30638	Chocolate House, Inc.:	
Baton Rouge Rice Mill, Inc.:		caramel marshmallow bars --	30636
rice _____	30617	Clements, M. C.:	
Beardsley's, J. W., Sons:		flour and rice _____	30607
codfish cakes _____	30647	Clements Foods Co.:	
Besco Products Co.:		mustard seed _____	30694
canned peaches _____	30649	Colonial Food Supply:	
Big Horn Canning Co.:		rice _____	30619
canned green beans _____	30657	Consolidated Foods Corp.:	
Bitting, R. A.:		canned tomatoes_____	30665
Mrs. Smith's pies_____	30605	Crump, W. M.:	
		macaroni, spaghetti, and flour_	30611

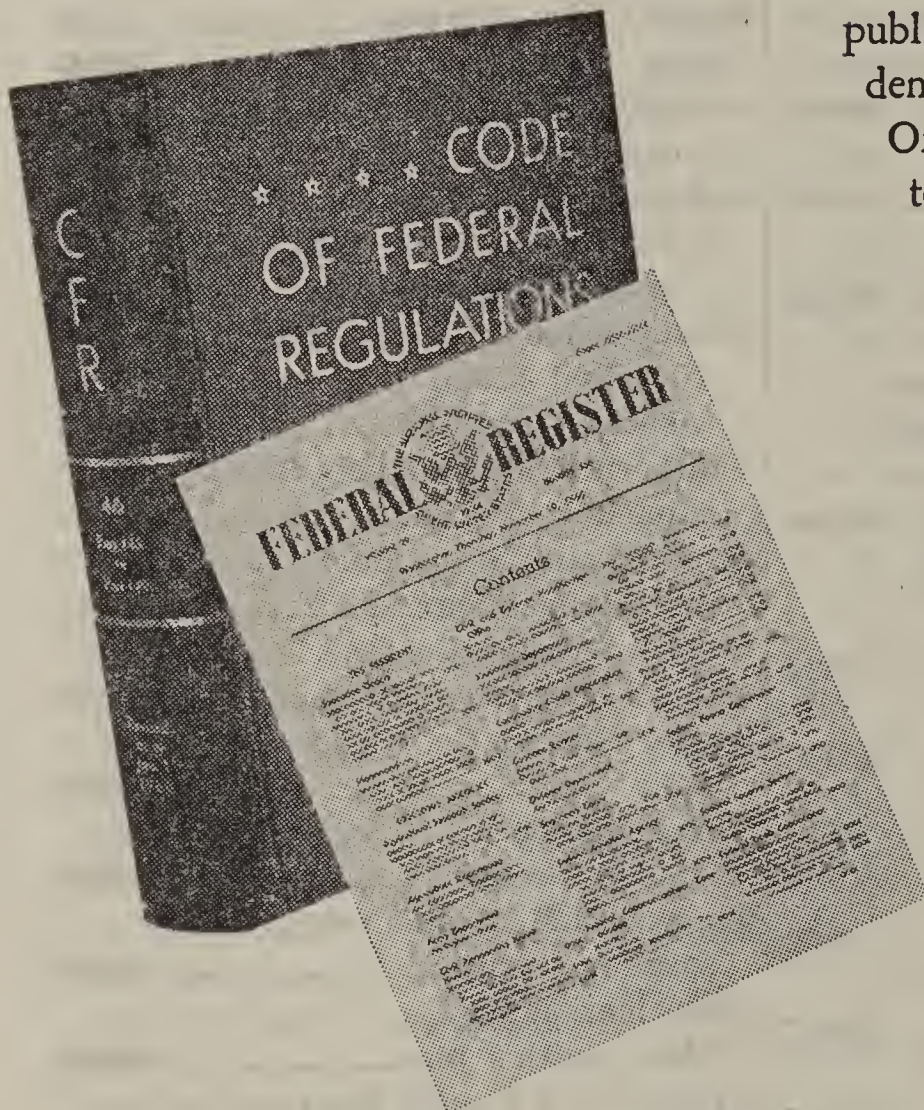
¹(30641) Prosecution contested.

	N.J. No.		N.J. No.
Davis, Nelson, & Son, Inc.:		La Touraine Coffee Co., Inc.:	
canned tomatoes-----	30666	tea bags-----	30602
Del-Sea, Inc.:		Lee, Henry, Co.:	
frozen lobster tails-----	30646	rice -----	30621
Dixie Grocery Co., Inc.:		Little, R. A.:	
coconut, grits, macaroni, and		coconut, grits, macaroni, and	
popcorn -----	30689	popcorn -----	30689
Dixie Peanut Co., Inc.:		Los Angeles Nut House:	
shelled peanuts-----	30674	toasted almonds-----	30672
Drexel Elevator & Mercantile		Louisiana Rice Growers, Inc.:	
Co.:		rice -----	30617
wheat -----	30632	Lucky Fish Co., Inc.:	
Duncan Wholesale, Inc.:		frozen ocean perch fillets-----	30645
self-rising flour-----	30610	McClain, Roy:	
Farmers Union Cooperative As-		sorghum sirup-----	30642
sociation:		Mark, Paul, Inc.:	
wheat -----	30624	blackberry preserves---	30651-30653
Fleming Co., Inc.:		Marshall Wholesale Grocery Co.:	
butter mints-----	30637	macaroni, spaghetti, and flour-	30611
Forbes, Jas. H., Tea & Coffee		Martin Nut Co.:	
Corp.:		shelled walnuts and shelled	
cumin seed-----	30690	Spanish peanuts-----	30681
Globe Grocery Co.:		Mawer-Annis, Inc.:	
shelled walnuts-----	30685	Spanish olives-----	30661
Good Grain Co.:		Mawer-Annis Illinois, Inc.:	
wheat -----	30630	Spanish olives-----	30661
Graham Grain Co.:		Mayfield, G. W.:	
wheat -----	30626	macaroni, spaghetti, and flour-	30611
Grain Products Corp.:		Mazo-Lerch Co., Inc.:	
Harmon's malt-flavored sirups-	30644	rice -----	30622
HLH Products:		Mel-Williams Co.:	
canned tomatoes-----	30669	canned peach concentrate-----	30650
Harper-Hutchison-Thompson Co.:		Meridan Distributors:	
flour -----	30608	canned tomatoes-----	30662
Harvest Supply Co.:		Michael, C. F., & Sons:	
wheat -----	30631	canned tomatoes-----	30664
Hinky Dinky Stores:		Mid-Way Wholesale Co.:	
unshelled walnuts and un-		spaghetti, macaroni, and cake	
shelled pecans-----	30686	mix -----	30614
Homestead Canning Co., Inc.:		Midwest Coffee Co.:	
canned tomatoes-----	30662	roasted coffee-----	30601
Hoody Peanut Products Co.:		Mill-Brook Macaroni Co.:	
shelled mixed nuts-----	30680	noodles -----	30616
Japan Food Corp.:		spaghetti -----	30612
rice -----	30623	Morehouse Mustard & Supply Co.:	
Jerry's Nursery:		mustard seed-----	30693
sorghum sirup-----	30643	Morgan Packing Co., Inc.:	
Lambert's Point Docks, Inc.:		tomato catsup-----	30670, 30671
sugar and coffee----- ¹	30641	Natale III (boat):	
		frozen ocean perch fillets-----	30645

¹ (30641) Prosecution contested.

	N.J. No.		N.J. No.
National Distributors:		Safeway Stores, Inc.:	
Harmon's malt-flavored sirups	30644	unshelled pecans and unshelled	
National Institutional Food Dis-		almonds -----	30676
tributor Associates, Inc.:		Shickley Grain Co.:	
canned tomatoes-----	30669	wheat -----	30625
New England Fillet Co., Inc.:		Sisk, Albert W., & Son:	
frozen ocean perch fillets-----	30645	canned tomatoes-----	30663
New England Tea Packing Co.,		Smith's, Mrs., Pie Co.:	
Inc.:		pies -----	30605
tea bags-----	30602	Smith Terminal Warehouse Co.:	
Nut Lunch Co.:		poppyseed -----	30695
shelled mixed nuts-----	30680	Soll-Madden Salvage Co., Inc.:	
Ocean Products, Inc.:		baby cereal, cake mix, jelly,	
frozen shrimp-----	30648	and pudding mix-----	30697
Olender, Philip, & Co.:		Southern Ice & Cold Storage Co.:	
sesame seed, currants, yellow		unshelled brazil nuts and un-	
cornmeal, Donut mix, salt		shelled walnuts-----	30673
rising dry yeast, and coffee-		Southern Pride Products, Inc.:	
cake mix-----	30696	canned tomatoes-----	30668
Pacific Commercial Warehouse,		Stones Candy Cane Co.:	
Inc.:		granulated sugar-----	30640
unpopped popcorn-----	30635	Suffolk Grocery Co., Inc.:	
Pandora Canning Co.:		dried baby lima beans-----	30659
canned tomatoes-----	30665	Taylor Baking Co., Inc.:	
Parker's Products, Inc.:		flour -----	30609
candy for ice cream flavoring--	30639	Texas Nut Co.,:	
Pierce, S. S., Co.:		shelled pecans-----	30688
tea bags-----	30602	Thomas, J.M.L., and Daughter:	
Plainview Canning Co.:		sorghum sirup-----	30643
canned tomatoes-----	30667	Thuermer, J. F.:	
Pomona Products Co.:		Mrs. Smith's pies-----	30605
canned spinach-----	30655	United Food Stores, Inc.:	
Port Terminals, Inc.:		rice -----	30618
shelled walnuts-----	30684	Ward, T. R.:	
Ranney-Davis Mercantile Co.:		coconut, grits, macaroni, and	
roasted coffee-----	30601	popcorn -----	30689
Red River Grain Co.:		Wauhillau Canning Co.:	
wheat -----	30628	canned tomatoes-----	30667
Richardson, Thomas D., Co.:		Weintraub, Isadore:	
butter mints-----	30637	pumpnickel bread-----	30603
Roberts, R. S.:		Weintraub Bakery Co.:	
canned tomatoes-----	30662	pumpnickel bread-----	30603
Roberts Wholesale Co.:		Western Fruit Concentrates,	
noodles -----	30616	Inc.:	
Rogers, E. V.:		canned peach concentrate-----	30650
flour and rice-----	30607	Wolch Nut & Candy Co.:	
Roland's Bonded Warehouse:		shelled mixed nuts-----	30677, 30678
unshelled peanuts-----	30675	Woolson Spice Co.:	
		cumin seed-----	30690

The FEDERAL REGISTER . . .



publishes daily the full text of Presidential Proclamations, Executive Orders, and Reorganization Plans, together with Federal agency orders, regulations, notices, or similar documents having general applicability and legal effect.

The **FEDERAL REGISTER** is keyed to, and is a daily supplement to the **CODE OF FEDERAL REGULATIONS**. Sold by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C., 20402, the **FEDERAL REGISTER** is priced at \$15 a year; \$1.50 a month.

The **CODE OF FEDERAL REGULATIONS** is a *codification* of rules and regulations issued by the administrative agencies of the Federal Government. Regulatory material published in the *Federal Register* is keyed to the *Code of Federal Regulations* which is published under 50 titles, pursuant to section 11 of the Federal Register Act, as amended.

For **SAMPLE COPY** of the **FEDERAL REGISTER**, write to:
Director, Office of the Federal Register,
National Archives and Records Service,
Washington, D.C. 20408

B3286